2019 IL App (3d) 180082-U

Order filed January 17, 2019

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
	)	Henry County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal No. 3-18-0082
v.	)	Circuit No. 16-CM-231
	)	
CHAD A. RENTFRO,	)	Honorable
	)	Terence M. Patton,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Carter and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held*: The evidence was sufficient to find the defendant guilty of resisting a correctional officer. The defendant's remaining arguments were forfeited.

¶ 2 The defendant, Chad A. Rentfro, appeals his convictions, arguing: (1) he did not commit the criminal offense of resisting a correctional officer because the jail did not exhaust its administrative remedies, (2) the evidence was insufficient to convict, and (3) the State's closing argument was improper.

¶ 3 I. BACKGROUND

¶ 4 The defendant was charged with two counts of resisting a correctional officer (720 ILCS 5/31-1(a) (West 2016)). The case proceeded to a jury trial on April 5, 2017. Calib Ingle testified that he was employed by the Henry County sheriff's office as a correctional officer and worked in the jail. He was on duty at the jail from 6 p.m. on June 19, 2016, to 6 a.m. on June 20, 2016. There were five officers on duty. Ingle stated that when a person is brought into the jail, they "take them into booking." The booking process includes getting "all their information: their name, their address and date of birth, Social Security number, and where they're employed, any medical issues that they may have, if they're suicidal." Ingle stated that there was a computer program that required the officers to fill out the questions when booking a person.

¶ 5 In the early morning hours of June 20, 2016, the defendant "was arrested and brought into the jail. He was placed in the conference room, when he came in ***. He became very agitated and began yelling." Deputy Patrick Blume was booking the defendant, but Ingle was in the room. Ingle stated,

> "[The defendant] was unwilling to answer any questions. He wanted his attorney. We explained all we need to do is just get the medical—the medical questions and all that stuff filled out and then he has access to the phone, but we need to get the booking process done first. He—he was unhappy with that."

Ingle said that the defendant was "demanding a phone call," but that it would not have been possible for the defendant to use the phone before completing the booking process. He said,

> "Once they are completely processed in, they're able to use the phone. There's a reason for that, because at the end of the booking process, we print them out a

> phone PIN, and with the phone PIN they can gain access to the phone so they can use it. Otherwise, they can't even use the phone in the jail."

The officers gave the defendant "several opportunities" to provide the information, but the defendant would not cooperate. Therefore, Ingle, Derek Hendrick, and Blume took the defendant to a holding cell until he was ready to cooperate.

¶ 6 When placing the defendant in the holding cell, Ingle stated that the officers explained that the defendant would need to remove his shoes. Ingle said that the policy of the jail was that once a person is placed in a holding cell, they must remove their shoes and put on a pair of sandals. Ingle said a person could "hang himself or anything" with the laces. The defendant was wearing cleats, which Ingle stated could be used as a weapon. Ingle asked the defendant multiple times for his shoes, stating "I need your shoes. *** The policy is I need your shoes. Everybody wears sandals when they go in a holding cell." The defendant refused, stating, "Fuck you. If you want them, come get them." When the defendant refused multiple times, Ingle, Blume, and Hendrick approached the defendant to remove the shoes. They told the defendant they were going to take the shoes from him. The defendant "tried to run through [them]." Ingle said,

> "Deputy Blume grabbed an arm. I grabbed an arm. It ended up changing around. I believe Deputy Hendrick ended up with an arm and I had an arm. [The defendant] got up off the bench, tried to come at us. He—he was not going to let us get the shoes, so we—we grabbed him and set him on the bench. Deputy Blume grabs the shoes off and tosses them out the door of the holding cell. [The defendant] slides off the bench. We pick him back up. You can clearly see he's trying to fight us off of him. We set him back on the bench, and it goes from there."

The holding cell was equipped with a video recording system, but no audio. The video recording was shown to the jury, but was not provided to the appellate court on appeal. Ingle stated that the video recording showed another man in the holding cell with the defendant. The other man was wearing sandals without shoelaces, though they did not appear to be the normal orange sandals.

¶ 7 Blume testified that he was also a correctional officer for the Henry County sheriff's office and worked at the jail. He was working the same shift as Ingle when the defendant was brought into the jail. He testified consistently with Ingle and stated that the defendant refused to answer any questions during booking. They then took him to the holding cell and asked for his shoes. The defendant refused and said, "If you want them, come get them." They attempted to restrain the defendant to remove his shoes when he would not do it himself. Blume stated that the defendant "was actively resisting." The videotape was shown again.

¶ 8 Hendrick also testified that he was employed with the Henry County sheriff's office and worked the same shift at the jail as Blume and Ingle. Hendrick stated that during booking the defendant "was noncompliant with answering [the] questions, was refusing orders." When the defendant was not compliant, Hendrick said, "We then direct him into our holding cell, at which point we ask him to remove his shoes, which are baseball cleats, and that's when he states that he's not going to give them up and that we're going to have to come get them from him." They asked the defendant to remove his shoes at least three times. Hendrick stated that the defendant started to struggle so he grabbed one of the defendant's arms in order to try to control him. The defendant continued to pull away and struggle while they removed his shoes. Hendrick said that once the defendant's shoes were removed, they left him in the holding cell to "sober up."

¶ 9 The defense did not present any evidence. In closing statements, the defense attorney stated that the defendant did not do anything physical to the officers. The State responded,

> "Resisting doesn't have to be physical. Resisting does not have to be. It does not say anywhere in those instructions that in order to resist an officer's performance of their job you have to be pulling your arms or legs away, that you have to be running away, that you have to be doing something physical. That's not what that says. It's prohibiting them from doing something that is within their job description to do, and that's what [the defendant] did ***."

The jury found the defendant guilty of both counts. The defendant was sentenced to 12 months' conditional discharge and 48 hours in jail.

¶ 10 II. ANALYSIS

¶ 11 On appeal, the defendant argues (1) he did not commit the criminal offense of resisting a correctional officer because the jail did not comply with the disciplinary procedures of the Department of Corrections, (2) the evidence was insufficient to find the correctional officer was performing an authorized act within his official capacity, and (3) he was denied a fair trial where the State's closing argument improperly stated that resisting a correctional officer did not require a physical act.

¶ 12 A. Administrative Disciplinary Procedures

¶ 13 The defendant first argues that he could not be criminally convicted of resisting a correctional officer because he first had to be subjected to the administrative disciplinary procedures of the jail. The record does not show that the defendant raised this issue at any time in the circuit court. Instead, the defendant raises this defense for the first time on appeal.

¶ 14 "Generally, a defendant's argument is forfeited on appeal if it was not raised in the trial court." *People v. Morgan*, 385 Ill. App. 3d 771, 773 (2008) (citing *People v. Enoch*, 122 Ill. 2d 176 (1988)). Although the *Enoch* court discussed waiver, we note—as has the supreme court

itself—that there is a difference between waiver and forfeiture. See *Buenz v. Frontline Transportation Co.*, 227 Ill. 2d 302, 320-21 n.2 (2008) ("While waiver is the voluntary relinquishment of a known right, forfeiture is the failure to timely comply with procedural requirements [Citations.] These characterizations apply equally to criminal and civil matters."). Thus, the relinquishment of an argument through failure to bring it in the trial court is properly termed a forfeiture of that argument.

¶ 15 Our supreme court has explained the importance of raising issues in the trial court.

> "Failure to raise issues in the trial court denied that court the opportunity to grant a new trial, if warranted. This casts a needless burden of preparing and processing appeals upon appellate counsel for the defense, the prosecution, and upon the court of review. Without a post-trial motion limiting the consideration to errors considered significant, the appeal is open-ended. Appellate counsel may comb the record for every semblance of error and raise issues on appeal whether or not trial counsel considered them of any importance." *People v. Caballero*, 102 Ill. 2d 23, 31-32 (1984).

Moreover,

> "[b]y declining or failing to raise *** claims below, [a] defendant deprive[s] the State of the opportunity to challenge them with evidence of its own, he deprive[s] the trial court of the opportunity to decide the issue on those bases, and he deprive[s] the appellate court of an adequate record to make these determinations. To consider such claims preserved would also multiply litigation by motivating parties to address at trial all conceivable arguments that might later be made and by forcing the trial court to consider not only the arguments made by counsel, but

all arguments counsel might have made." *People v. Hughes*, 2015 IL 117242, ¶ 46.

¶ 16 As the defendant did not raise this claim below, he denied the circuit court the opportunity resolve the issue. He has, thus, forfeited review on appeal. The defendant does not argue for plain error review and provides no reason why we should excuse this forfeiture.

¶ 17 B. Sufficiency of the Evidence

¶ 18 A person commits the offense of resisting a correctional officer under section 31-1(a) of the Criminal Code of 2012 when "(1) knowing that one is a peace officer, (2) he or she knowingly resists or obstructs (3) the officer's performance of an authorized act." *Abbott v. Sangamon County, Ill.*, 705 F.3d 706, 721 (7th Cir. 2013). "[S]ection 5/31-1(a) does 'not proscribe mere argument with a policeman about the validity of an arrest or other police action, but proscribe[s] only some physical act which imposes an obstacle which may impede, hinder, interrupt, prevent[,] or delay the performance of the officer's duties, such as going limp, forcefully resisting arrest[,] or physically aiding a third party to avoid arrest.' " *Id.* (quoting *People v. Raby*, 40 Ill. 2d 392, 399 (1968)). On review, we will not set aside a criminal conviction unless the evidence is so improbable or unsatisfactory that it raises a reasonable doubt of a defendant's guilt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). When considering a challenge to the sufficiency of the evidence, we determine whether, taking the evidence in the light most favorable to the State, any rational trier of fact could have found all the elements of the offense were proven beyond a reasonable doubt. *Id.*

¶ 19 The defendant does not dispute the first two propositions. Moreover, the officers were in uniform, were on duty at the jail, and told the defendant multiple times that he needed to remove his shoes. When he refused multiple times, the officers approached the defendant to remove his

shoes, and the defendant knowingly, physically resisted. The defendant was proven guilty beyond a reasonable doubt of the first two elements.

¶ 20 Instead, the defendant contends that the officers were not performing an authorized act. Authorized in this context means " ' "endowed with authority." ' " *City of Champaign v. Torres*, 346 Ill. App. 3d 214, 217 (2004) (quoting *People v. Shinn*, 5 Ill. App. 3d 468, 472 (1972), quoting *People v. Young*, 100 Ill. App. 2d 20, 23 (1968)). We determine "whether an officer was doing what he or she was employed to do or was engaging in a personal frolic." *Id.* "The fact a police officer's conduct is later determined to be unlawful should not divest the officer of his or her authority." *Id.*

¶ 21 Here, the officers were in the process of completing the booking process, which is an authorized act. See *People v. Weathington*, 76 Ill. App. 3d 173, 177 (1979) ("The officer's authorized act in the present case was to ask for information in the booking process ***."). As part of that process, if a person would not answer the questions, they put him or her in a holding cell until they would cooperate. For the safety of the person, the officers, and any other people in the holding cell, it was the policy of the jail that shoes with laces were not allowed in the holding cell. By taking the defendant's cleats when he refused to remove them, the officers were continuing the booking procedures. Therefore, the officers were engaged in an authorized act and the defendant was proven guilty beyond a reasonable doubt of resisting a correctional officer.

¶ 22 In coming to this conclusion, the defendant argues that "[t]he State introduced no evidence upon which the jury could determine whether the correctional officers were authorized to demand that [the defendant] comply with a jail policy." Specifically, the defendant contends that "[n]o officer referenced the location where the written rules and regulations of the Henry County jail were 'conspicuously posted' and 'accessible' to the detainees." Further, the

defendant argues that the officers' act was unauthorized because they would not allow the defendant to make a phone call until after the booking process was complete. We reject these claims. As stated above, the question is "whether an officer was doing what he or she was employed to do or was engaging in a personal frolic." *Torres*, 346 Ill. App. 3d at 217. The officers' were employed to book the defendant into the jail. Even if they failed to post written regulations or allow the defendant to make a phone call, it did not divest them of the authority to book the defendant. See *id.*

¶ 23 C. Closing Argument

¶ 24 Lastly, the defendant contends that the State misstated the law during closing arguments when it stated that resisting a correctional officer does not require a physical act. The defendant admits that he did not object to the statement at trial, but argues that it is preserved for review on appeal because he raised it in his posttrial motion. "*Both* a trial objection *and* a written post-trial motion raising the issue are required for alleged errors that could have been raised during trial." (Emphases in original.) *Enoch*, 122 Ill. 2d at 186. Because the defendant failed to object at trial and because he does not request this court to review the issue for plain error, he has forfeited the argument on appeal. See *People v. Hillier*, 237 Ill. 2d 539, 545-46 (2010).

¶ 25 III. CONCLUSION

¶ 26 The judgment of the circuit court of Henry County is affirmed.

¶ 27 Affirmed.