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2014 IL App (3d) 130042-U

Order filed August 22, 2014

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2014

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,)	
v.)	Appeal No. 3-13-0042
)	Circuit Nos. 12-DT-376 and 12-TR-23554
MICHAEL E. DAGGETT,)	Honorable
Defendant-Appellant.)	Robert P. Livas, Judge, Presiding.

PRESIDING JUSTICE LYTTON delivered the judgment of the court.
Justices Holdridge and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence was sufficient to prove defendant guilty beyond a reasonable doubt of failing to reduce speed to avoid an accident.

¶ 2 Defendant, Michael E. Daggett, was found guilty of driving under the influence (DUI) (625 ILCS 5/11-501(a)(2) (West 2012)) and failure to reduce speed to avoid an accident (625 ILCS 5/11-601(a) (West 2012)). Defendant appeals, arguing he was not proven guilty beyond a reasonable doubt of failing to reduce speed to avoid an accident. We affirm.

back and forth behind his truck and continuously coughing. As Szmergalski spoke to defendant, she detected a strong odor of alcohol emanating from his breath. Szmergalski also observed that defendant's eyes were glassy and bloodshot, his speech was slurred, and he was holding onto his truck to balance himself. Defendant admitted drinking three or four beers at a bar approximately 45 minutes before the accident. Defendant explained that after leaving the bar, he went to his vehicle, which was parked three blocks from where the collision occurred. Defendant explained that as he drove his truck, he started having a coughing fit. Defendant told Szmergalski that he should have pulled over because during a coughing fit he has difficulty breathing. Defendant, however, continued driving, stopped at a stop sign, and after continuing through the intersection struck a parked car.

¶ 8 Szmergalski testified that defendant also told her he was legally blind in his right eye and had an ankle injury. Szmergalski administered several field sobriety tests. It was Szmergalski's opinion that defendant failed the tests and that he was under the influence of alcohol. Szmergalski placed defendant under arrest, and he later refused to take a breathalyzer test. A video recording of the stop was played in court. The video showed a narrow residential road that inclined slightly where the accident had occurred.

¶ 9 The trial court found defendant guilty of both offenses. The court denied defendant's motion for a new trial and sentenced him to 12 months of conditional discharge.

¶ 10

ANALYSIS

¶ 11 Defendant argues that State failed to prove him guilty beyond a reasonable doubt of failing to reduce speed to avoid an accident, because there was insufficient evidence that he drove carelessly and failed to reduce his speed. 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. Baskerville*, 2012 IL 111056; *People v. Collins*, 106 Ill. 2d 237 (1985). Under this standard, the reviewing court must construe all reasonable inferences in favor of the State. *People v. Givens*, 237 Ill. 2d 311 (2010). A conviction will only be overturned where the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of defendant's guilt. *Id.*

¶ 12 To prove defendant guilty of failing to reduce speed to avoid an accident, the State was required to prove beyond a reasonable doubt that defendant drove carelessly and failed to reduce speed to avoid colliding with a person or vehicle. 625 ILCS 5/11-601(a) (West 2012); *People v. Schumann*, 120 Ill. App. 3d 518 (1983). The State is not required to prove defendant was exceeding the speed limit because the offense can be committed regardless of the speed of defendant's vehicle or the relevant speed limit. *People v. Sturgess*, 364 Ill. App. 3d 107 (2006).

¶ 13 Defendant relies on *People v. Brant*, 82 Ill. App. 3d 847 (1980), to claim that evidence of his intoxication and the fact that a collision occurred, without more, were insufficient to sustain his conviction. *Brant*, however, is inapposite. In *Brant*, defendant drove while intoxicated and collided with a parked car that was in a no parking zone and was partially obscured from view by the shade of trees. Thus, there was some indication that defendant may not have been able to clearly see the vehicle he collided with. In this case, by contrast, defendant rear-ended a car that was legally parked on the side of the street. Defendant's only explanation for the collision was that he was having a coughing fit. He offered no other evidence as to why he was unable to avoid striking the parked car. Although the video recording from the scene showed a slight incline in the roadway, there was no indication defendant's view of the parked car was obstructed. There was also evidence that defendant would have been able to pass the vehicle

