

No. 1-14-0603

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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.)	Nos. TE-141-296
)	TE-141-297
)	
YAW YEBOAH,)	Honorable
)	Daniel J. Gallagher,
Defendant-Appellant.)	Judge Presiding.

JUSTICE REYES delivered the judgment of the court.
Presiding Justice Palmer and Justice McBride concurred in the judgment.

O R D E R

- ¶ 1 *Held:* Judgment entered on defendant's conviction of leaving the scene of a vehicular accident without providing information reversed where the evidence was insufficient to sustain that conviction.
- ¶ 2 Following a bench trial, defendant Yaw Yeboah was found guilty of leaving the scene of a vehicular accident without providing his identification information, and sentenced to 30 days' imprisonment. He was also found guilty of a Chicago Municipal Code violation (Chicago Municipal Code § 9-56-030 (added July 12, 1990)) for leaving the scene after striking fixed

property. On appeal, defendant does not challenge the judgment entered on the municipal code violation, but contests the sufficiency of the evidence to prove him guilty of leaving the scene of an accident without providing identification information. He also contends that the 30-day sentence imposed by the court was an abuse of discretion, and improperly based on the trial court's personal bias.

¶ 3 At trial, Tawana Furlough (Furlough) testified that at 8:35 a.m. on November 21, 2013, she was driving westbound on 71st Street approaching Kimbark Avenue. As she was about to emerge from the viaduct at the intersection, defendant, who was driving a taxi-cab in front of her, made a U-turn, and struck her automobile. Furlough explained that the front end of her vehicle collided with defendant's passenger side door. Defendant also struck a light pole, and as a result caused the light fixture to fall down.

¶ 4 Furlough exited her vehicle, saw that the front end of her automobile had been damaged, sat down on the curb, and called police. She then observed defendant go to the back of his trunk, put some items in a bag, and run westbound on 71st Street, without inquiring if she was alright. He did not volunteer any information, such as his insurance, name, and address or driver's license before he left the scene, and she never saw him again. Furlough also related that her back was injured as a result of this accident.

¶ 5 Furlough further testified that there were people standing at a bus stop near the accident scene, and noted that there is a police station at 71st Street and Cottage Grove Avenue. Some drivers stopped and asked her if she was alright, and a small crowd began to gather. She did not know whether these individuals were asking defendant what happened or if they were talking louder.

¶ 6 Defendant testified that immediately after the accident, he exited his taxi-cab and asked Furlough if she was alright, but she was talking on her phone and did not respond to his question. He then walked back to his cab to look for his cell-phone so that he could call the police, but was unable to locate it. He then tried to speak to Furlough, who was screaming. Defendant told her to calm down and asked her if he could use her phone when she finished so that he could contact the police. Furlough told him she would not give him her phone because he tried to kill her, and he told her that it was an accident so she should calm down. Defendant also testified that if Furlough had responded to him, he would have given her his information.

¶ 7 Defendant further testified that a crowd was starting to form at the scene where he had struck a light pole and the lamp had fallen down. This made him nervous because he had money in his vehicle which fell to the ground, so he stood on it so that the crowd could not see it, then placed the money in his pocket. Defendant then observed three young men coming closer to his vehicle. He asked one of them if he could use his phone, but his request was refused. Defendant stated that he became "really scared" when a bystander went to talk to Furlough, and began questioning him about the incident. Thinking that he might be attacked, defendant gathered items from his vehicle that other people had left behind. He placed these items and his money in a bag, then tried to walk to the nearby police station. When he was halfway there, he heard a siren, dropped his bag, and returned to the accident scene because he believed the police were there. Defendant testified that he did not intend to run away, and was arrested at the scene of the accident. Defendant did not see Furlough at the accident scene, but did see an ambulance, and knew she was inside.

¶ 8 The court found defendant guilty of leaving the scene of the accident without providing the required information and leaving the scene after striking fixed property. In doing so, the court

noted that defendant was hiding something when he left the scene of the accident with the bag, and that "[h]is story makes no sense whatsoever, not even close to credible."

¶ 9 At the sentencing stage of proceedings, the court inquired if there was any proof that there was something illegal in the bag. The State advised the court that defendant had charges pending against him for possession of cannabis, and theft of lost or mislaid property under \$500, based on the items found in his bag when he was arrested. Counsel responded that he was surprised by this evidence because he believed the charges had been dismissed. The court noted that they were admissible in aggravation and in assessing whether he is credible, and that his credibility is relevant in assessing the penalty it should impose. The State advised the court that the last information it received was that the charges were still pending. The court stated that it found defendant was a "liar," and sentenced him to 90 days' imprisonment.

¶ 10 Defendant filed a motion for a new trial, which the court denied. In doing so, the court noted that defendant was "a liar, he was a boldfaced liar." The court, however, stated that the cannabis in the bag was not proved up because there was no test done on the alleged cannabis, and therefore it was inadmissible. The court further stated that what happened with the bag was not part of what it considered in finding him guilty. The court noted that even without the information regarding what was inside the bag, it found defendant incredible. The court did not believe that defendant left the scene because he was concerned for his safety, dropped the bag, and returned because he heard sirens.

¶ 11 Defendant subsequently filed a motion to reconsider sentence, alleging that the sentence imposed was excessive. Defendant further alleged that the court failed to consider sentencing him to supervision and that he has no history of prior delinquency or criminal activity.

¶ 12 At the hearing on defendant's motion, counsel informed the court that defendant is the sole provider for his family of five, that the charges for possession of cannabis and stolen items were dismissed, and that he had since lost his job. Before ruling, the trial judge recalled a day when he and his children were in his vehicle on his way to court when he witnessed a driver strike a bicyclist without stopping. The judge made sure his children were safe, then blocked traffic, helped the bicyclist and provided identification information. The judge noted that his children wanted to know why they did not go on a high speed pursuit of the vehicle that hit the bicyclist, and wanted him sent to jail immediately. The judge stated that this is "the framework in which I present with these things." The judge further stated that he believes leaving the scene is a "cowardly act so I have that predisposition; if I find some guilty on it, it might be an issue." That said, the judge noted that since the criminal charges related to the items found in defendant's bag were dismissed, he would reduce defendant's sentence to 30 days' imprisonment.

¶ 13 On appeal, defendant first challenges the sufficiency of the evidence to sustain his conviction for leaving the scene of the accident without providing his information. He maintains that since he returned and provided the police his identification information, he complied with the statutory requirement which does not set forth a time frame for disclosure.

¶ 14 When defendant challenges the sufficiency of the evidence to sustain his conviction, the proper standard of review is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Cunningham*, 212 Ill. 2d 274, 279-80 (2004). This standard recognizes the responsibility of the trier of fact to resolve conflicts in the testimony, to weigh the evidence and to draw reasonable inferences therefrom. *People v. Campbell*, 146 Ill. 2d 363, 375

(1992). A criminal conviction will not be reversed unless the evidence is so unsatisfactory as to raise a reasonable doubt of guilt. *Campbell*, 146 Ill. 2d at 375.

¶ 15 Defendant was convicted of leaving the scene of an accident without providing his information in violation of section 11-403 of the Illinois Vehicle Code (Code). 625 ILCS 5/11-403 (West 2012). That section requires the driver of a vehicle involved in a motor vehicle accident resulting in injury to any person or damage to any vehicle which is driven or attended by any person to provide the driver's name, address, registration number, and owner of the vehicle the driver is operating and shall upon request exhibit his driver's license to the person struck or the driver attending any vehicle collided with. If none of the persons entitled to information is in condition to receive and understand such information, and no police officer is present, the driver, after rendering reasonable assistance, shall report such accident to the nearest office of a duly authorized police authority, disclosing the information required by this section. 625 ILCS 5/11-403 (West 2012).

¶ 16 In this case, the record demonstrates that defendant struck Furlough's vehicle, and, as a result, her automobile was damaged and she sustained injuries to her back. Furlough testified that defendant did not inquire about her condition, and immediately gathered his belongings, and fled from the scene of the accident without disclosing his identity. Defendant testified that right after the accident, he stopped his vehicle, went up to Furlough, and asked her if she was okay, but she was hysterical. He maintained that he would have provided his information, but that she was unreceptive. Defendant testified that when a crowd started to form, he became nervous, and decided to walk to the nearby police station, then returned to the scene of the accident when he heard police sirens. Furlough testified that she did not see defendant after he left the scene, while defendant testified that Furlough was in the ambulance when he returned.

¶ 17 The court found defendant's story incredible and noted that he was hiding something when he left the scene. However, even accepting that determination, the fact remains that defendant returned to the scene and provided police the information required, in compliance with section 11-403 of the Code. Accordingly, we find that his conviction for leaving the scene of an accident without providing his information cannot stand.

¶ 18 The State disagrees and insists that defendant was required to comply with section 11-403 immediately and before leaving the scene. In support of its contention, the State cites section 11-401(a) of the Code (625 ILCS 5/11-401(a) (West 2012)), which provides:

"The driver of any vehicle involved in a motor vehicle accident resulting in personal injury to or death of any person shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until the requirements of Section 11-403 have been fulfilled. Every such stop shall be made without obstructing traffic more than is necessary." 625 ILCS 5/11-401(a) (West 2012).

¶ 19 As set forth above, Furlough provided conflicting testimony regarding defendant's activity after the impact. There is no doubt that defendant stopped his vehicle, but Furlough claimed that he did not inquire as to her condition and left the scene. Defendant testified that he unsuccessfully attempted to speak with Furlough, then began to walk to the nearby police station, before returning when he heard sirens, and gave the requisite information to police.

¶ 20 Although section 11-403 anticipates the immediate declaration of this information, it also provides for contingencies in varying situations. The evidence presented here demonstrates that defendant acted circuitously, but nonetheless complied with the requirements of section 11-403

at the scene; and accordingly, we find that his conviction for leaving the scene of an accident without providing the required information must be reversed.

¶ 21 Because we reverse defendant's conviction for leaving the scene of an accident without providing his identification information, we need not address his claim that the court abused its discretion in sentencing him on that offense. *People v. Sims*, 2014 IL App (1st) 121306, ¶21.

¶ 22 In light of the foregoing, we reverse the judgment entered on defendant's conviction for leaving the scene of the accident without providing identification information, and vacate defendant's sentence.

¶ 23 Reversed, sentence vacated.