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2016 IL App (3d) 150682-U

Order filed July 25, 2016

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2016

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. 3-15-0682
VICKI S. McDANIEL,)	Circuit No. 14-TR-13153
Defendant-Appellant.)	Honorable Daniel L. Kennedy, Judge, Presiding.

PRESIDING JUSTICE O'BRIEN delivered the judgment of the court. Justices Holdridge and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence was sufficient to sustain defendant's conviction for failure to notify of damage of an unattended vehicle.

¶ 2 Defendant, Vicki S. McDaniel, appeals from her conviction for failure to notify upon damaging an unattended vehicle. Defendant argues the State failed to prove her guilty beyond a reasonable doubt. We affirm.

¶ 3 **FACTS**

¶ 4 Defendant was charged by criminal complaint with failure to notify upon damaging an unattended vehicle (625 ILCS 5/11-404 (West 2014)). The cause proceeded to a bench trial.

¶ 5 At trial, Jacqueline Reynolds testified that on February 11, 2014, she was at Target in Tinley Park. While in the parking lot, Reynolds saw a red sedan strike an unoccupied parked vehicle. Reynolds identified that driver of the red sedan as a black woman. Following the collision, the red sedan appeared to become stuck on the bumper of the parked vehicle. Eventually, the red sedan separated, paused for a moment, and then drove off. Reynolds believed that the red sedan had an Indiana license plate; however, she was unable to get the license plate number. Reynolds explained that the plate "did not look like a typical Illinois plate." Reynolds did not see the word "Indiana" on the plate and could not remember the color of the plate.

¶ 6 Next, the State called Pamela Volanti to testify. On February 11, 2014, Volanti drove her Chevrolet Uplander to the Target in Tinley Park. When she arrived at the store, the vehicle was undamaged, but when Volanti exited the store, she saw that there was damage to the bumper. Volanti did not see the cause of the damage.

¶ 7 Detective Sam Dajani of the Tinley Park police department testified that he investigated the incident in the Target parking lot. On February 23, 2014, Dajani interviewed defendant. Dajani advised defendant that she was a suspect¹ in a hit-and-run accident that occurred at the Tinley Park Target on February 11, 2014. Dajani asked defendant to explain what happened, and defendant said that she reversed her vehicle and "barely touched" the vehicle that was behind her. Defendant exited her vehicle, saw that the vehicle she hit was undamaged, and left the scene.

¹It is unclear from the record how defendant became a suspect in the hit-and-run accident.

¶ 8 On cross-examination, Dajani said that he was not on the scene at the time of the accident, and he did not take pictures of the vehicle. At the time of her arrest, defendant was driving a red Honda Accord with Illinois license plates. Dajani said that defendant never denied being present at the Target on the date of the incident.

¶ 9 On redirect examination, Dajani testified that defendant said the Accord she was driving belonged to her mother. Defendant also said she was driving the Accord when she hit the parked vehicle. Dajani noticed that there was a minor scratch on the right side of the Accord's bumper.

¶ 10 After Dajani's testimony, defense counsel moved for a directed finding. The court denied the motion, and defense counsel called defendant to testify.

¶ 11 Defendant testified that she did not hit the parked vehicle and was not sure if she was at Target on February 11, 2014. Defendant also said that she did not have Indiana license plates and did not know anyone with Indiana license plates. Defendant's mother also never had Indiana license plates on her vehicle, and defendant said she never drove a vehicle with Indiana license plates. On cross-examination, defendant said that the red Accord she was driving at the time of her arrest did not have a scratch on the bumper.

¶ 12 After closing arguments, the court found that it would "have to completely disregard the officer's testimony or, in the alternative, I have to find that there [were] two separate instances of accidents at Target at the same time, and neither of those I am going to find, so I am going to find the defendant guilty." The court sentenced defendant to six months of court supervision, a \$250 fine plus costs, and ordered defendant to pay \$500 in restitution to the victim. Defendant filed a notice of appeal.

¶ 13 ANALYSIS

¶ 14 Defendant argues the State failed to prove her guilty beyond a reasonable doubt. When viewed in the light most favorable to the State, we find the evidence was sufficient to sustain defendant's conviction as it corroborated defendant's confession and established the *corpus delicti* of the offense.

¶ 15 When presented with a challenge to the sufficiency of the evidence, we must determine whether, 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. Collins*, 106 Ill. 2d 237, 261 (1985). A reviewing court will not substitute its judgment for that of the trier of fact. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006).

¶ 16 "The *corpus delicti* of an offense is the commission of a crime" and the "identity of the person who committed the offense." *People v. Lara*, 2012 IL 112370, ¶ 17. "The *corpus delicti* cannot be proven by a defendant's admission, confession, or out-of-court statement alone." *Id.* To sustain a conviction on a defendant's confession, the State must provide independent evidence that corroborates the defendant's statement. *Id.* The independent evidence need only "tend to show" the commission of the offense and it need not prove the commission of the offense beyond a reasonable doubt. (Emphasis omitted.) *Id.* ¶ 18.

¶ 17 Here, defendant was charged with failure to notify upon damaging an unattended vehicle. To sustain this offense, the State must prove beyond a reasonable doubt that defendant: (1) was involved in a motor vehicle accident; (2) with an unattended vehicle; (3) which resulted in damage to the other vehicle; and (4) did not immediately stop and either notify the operator or owner of the other vehicle or leave a note. 625 ILCS 5/11-404(a) (West 2014).

¶ 18 We begin by noting that the evidence established each of the elements of the charged offense. Specifically, Detective Dajani testified that defendant confessed to striking a vehicle in

the Target parking lot while driving her mother's red Accord. Defendant also confessed that she drove away after striking the vehicle. According to Reynolds, the parked vehicle was unattended. Additionally, Volanti testified that her vehicle sustained damage while it was parked in the Target parking lot. These facts, viewed in isolation, establish all four elements contained in section 11-404(a). Defendant, however, argues that her conviction cannot stand because the only evidence directly linking her to the accident was her alleged confession. Stated another way, defendant contends that because some of the elements can only be established via her confession, her conviction must be reversed. While we acknowledge that the *corpus delicti* cannot be proven by defendant's confession alone (*Lara*, 2012 IL 112370, ¶ 17), we find that the testimonies of Reynolds and Detective Dajani provided the necessary independent corroborative evidence.

¶ 19 We note that the corroborating evidence need not prove the offense beyond a reasonable doubt; rather it must be independent and confirm defendant's confession. See *Lara*, 2012 IL 112370, ¶ 18 (independent evidence need only show the commission of the offense and it need not prove the commission of the offense beyond a reasonable doubt). That is, a defendant's confession may prove the elements of the charged offense and sustain her conviction, so long as it is confirmed by independent corroborative evidence.

¶ 20 Here, the independent corroborative evidence confirmed defendant's confession. Reynolds witnessed the hit-and-run accident and described the fleeing vehicle as a red sedan which was driven by a black female. Detective Dajani said that, at the time of defendant's arrest, defendant was driving a red Honda Accord. While the record does not contain any stipulation with regard to defendant's race, we note that the trial court was able to observe defendant at trial and determine if she matched the description of the driver. See *e.g.*, *People v. Hood*, 213 Ill. 2d

244, 260-61 (2004) (jury who observed defendant during the trial could determine whether defendant was an average-sized man). Additionally, Dajani noticed the bumper of the Accord was scratched. The fact finder could reasonably find that this scratch was consistent with Reynolds's description of the accident.

¶ 21 We also emphasize that the trial court is charged with resolving any inconsistencies in the evidence, and also drawing reasonable inferences based on the presented testimony. *Sutherland*, 223 Ill. 2d at 242. Therefore, while we acknowledge that the Accord driven by defendant had Illinois plates, and Reynolds testified that the offending vehicle had Indiana plates; we do not view this inconsistency as fatal to defendant's conviction. Initially, we note the remaining evidence, when viewed in the light most favorable to the State is sufficient to sustain defendant's conviction. *Collins*, 106 Ill. 2d at 261. Moreover, Reynolds explained that the plate "did not look like a typical Illinois plate." Thus, it is possible that the plate of the offending vehicle was simply an atypical Illinois plate. Because the trial court was aware of this inconsistency, and in light of our standard of review, we will not disturb the trial court's finding of guilt. *People v. Wheeler*, 226 Ill. 2d 92, 114-15 (2007); *Sutherland*, 223 Ill. 2d at 242.

¶ 22 CONCLUSION

¶ 23 The judgment of the circuit court of Will County is affirmed.

¶ 24 Affirmed.