



¶4 The events at issue which resulted in identical charges of disorderly conduct—one from the Belleville police department, and the other from the Fairview Heights police Department—took place on June 10, 2010. The Fairview Heights police officer who wrote up the disorderly conduct charge stated that the defendant unlawfully committed disorderly conduct:

"IN THAT THE SAID DEFENDANT HAD KNOWINGLY FOLLOW[ED] AMANDA HURST FROM BELLEVILLE TO FAIRVIEW HEIGHTS WALGREENS LOCATION AT 6505 N. ILLINOIS, AND HONKED HIS HORN AND YELLED AT AMANDA HURST, IN SUCH AN UNREASONABLE MANNER AS TO ALARM AND DISTURB HER, AND PROVOKE A BREACH OF PEACE."

At trial, both the defendant and Amanda testified.

¶5 Amanda testified on cross-examination that one to two weeks before the date of the defendant's arrest, she contacted the defendant and ultimately went to his home. They watched a couple of movies. That night, the defendant and Amanda got into a fight about her cell phone when the defendant took her phone and would not return it to her. She attempted to leave his apartment that night and testified that the defendant got "very bizarre" about not wanting her to leave. She stated that she felt uncomfortable that evening. She explained that she told the defendant not to come over to her apartment and not to go to her place of work. She testified that she told him this "[t]hroughout the whole month of May." She explained that the defendant kept bothering her and that she had blocked him from her cell phone.

¶6 Two days before the defendant's arrest, Amanda arrived back at her apartment from the laundromat and discovered that the defendant was waiting for her. She does not recall speaking to or texting him earlier that day. Amanda testified that she got very mad at him

and stated that this behavior made her uncomfortable. This was not the first time that the defendant was waiting for her when she arrived home at her apartment. Despite being angry at him, she allowed the defendant to come up to her apartment that evening, and they had drinks. Amanda testified that after a few hours together, most of which were spent arguing, they got into a final argument, and she "kicked him out," telling "him not to come back to [her] apartment unless [she] asked him to."

¶ 7 Amanda testified that on June 10, 2010, the defendant showed up at her apartment between 9 and 9:30 a.m. and began knocking on her door. She was asleep at that time. She had not invited him over. She determined that the person at her door was the defendant because she saw his vehicle when she looked out her window. She did not answer the door. The defendant eventually stopped knocking. She testified that she did not answer her door because she was somewhat scared of the defendant. She described the defendant as a person who was somewhat obsessive because he called and texted her frequently. She got ready to go to work at the Walgreens store in Fairview Heights and left for work at 10:15 a.m. The defendant was no longer at her door when she departed, but she did encounter the defendant in the stairwell. Amanda told the defendant not to touch her, and she walked past him to her vehicle. The defendant did not interact with her. Once she was inside her vehicle, the defendant walked up to the vehicle and tried to say something to her, but she locked her door and did not acknowledge him. Amanda testified that she was frightened by the defendant's behavior in showing up at her apartment unannounced.

¶ 8 Amanda then drove from Belleville to Fairview Heights. The defendant followed her in his vehicle. She testified that if she changed lanes, the defendant changed lanes. The defendant followed her into the Walgreens parking lot. Amanda parked in the employee parking area, and the defendant pulled his vehicle behind hers, blocking her car. She got out of her vehicle and stood by the bumper with the intent to go into the Walgreens store to work

her scheduled hours. The defendant's window was rolled down, and she thought that he was trying to talk or yell to her, but because of traffic noise in Fairview Heights, she was unable to make out what he was saying.

¶ 9 During her drive from Belleville to Fairview Heights, Amanda called the police. Upon arrival at the Fairview Heights Walgreens store, the police met her there. The defendant moved his vehicle. The police first spoke to Amanda and then spoke to the defendant. Amanda testified that there was no further contact with the defendant that day. He did not speak to her, yell at her, and/or honk his horn at her. She testified that she was disturbed and frightened by the fact that the defendant had followed her to work.

¶ 10 The police arrested the defendant in Fairview Heights and told Amanda that she needed to go to the Belleville police department and report to them what had happened that morning. When she got off work that evening, Amanda went directly to the Belleville police department, and the Belleville police also issued a citation.

¶ 11 After Amanda testified, the State rested its case. The defendant moved for a directed verdict, arguing that his behavior was reasonable, was not threatening in any way, and therefore could not be construed as disorderly. In denying the motion, the trial judge found it problematic that the defendant followed Amanda from Belleville to Fairview Heights. At that point in the proceedings, the trial judge felt that the defendant's behavior in following Amanda supported the disorderly conduct charge and that a directed verdict would not be proper.

¶ 12 The defendant took the stand at trial. He confirmed many of the details to which Amanda testified about how they met. He recalled that they had studied together from sometime in the middle of April until the latter part of May of 2010.

¶ 13 The defendant testified that prior to the June 10, 2010, incident, he and Amanda had last been in each other's company one week prior. Amanda contacted him to ask him what

he was doing that particular evening. She came over to his home. They watched two movies. He testified that they were getting along well while they were watching the movies. The defendant stated that afterwards he took her phone and was teasing Amanda. He had no way to use the phone or look at anything on the phone because Amanda's phone was locked with an access code, but he was pressing keys on it while not giving the phone back to her. Amanda got upset, and she left his home. He drove over to her apartment to give the phone back to her.

¶ 14 Two days before June 10, 2010, the defendant went to Amanda's apartment. The defendant testified that he went to her apartment to discuss the fact that Amanda had blocked his cell phone from her phone account. The defendant testified that Amanda blocked his number from her cell phone account because Amanda said that he called and texted her too frequently. He apologized to her for this behavior and for the earlier phone incident at his apartment. He stayed at her apartment between three and five hours. He denies that the two of them argued during his stay. At some point that evening, Amanda removed the block of the defendant's number from her phone account. The defendant testified that in light of the removal of the block of his cell phone number from her account, he felt that "everything was cool." That evening, he and Amanda were drinking alcoholic beverages. Later that evening, he and Amanda engaged in sexual intercourse. The defendant denies that Amanda told him that evening that he was never to show up at her apartment uninvited. However, because Amanda was upset that night, the defendant and Amanda talked about that evening during the next two days.

¶ 15 On June 10, 2010, the defendant went to Amanda's apartment. He admitted that Amanda had not invited him to her home. He knocked on her door, but Amanda did not answer. He returned to his own vehicle after noticing that her vehicle was on the parking lot. He took a teddy bear and flowers up to her apartment and left them next to her door. He then

sent her a text message telling her that he had done so. After that, Amanda exited her apartment while he was still in the building. The defendant confirmed that when Amanda walked past him she told him not to touch her. He did not attempt to touch her. He asked if he could speak with her. She ignored this request and walked out to her vehicle. On cross-examination, the defendant testified that he did not leave her apartment building after Amanda told him not to touch her, because "she never told me to leave." He further explained that he wanted to discuss the sexual activity that took place on June 8, 2010, because he knew she was upset about it. The defendant testified that during their sexual encounter, Amanda changed her mind and told the defendant to stop, which he did.

¶ 16 Amanda drove towards Walgreens, where she worked, and the defendant followed her. The defendant acknowledged that he pulled his vehicle in behind her vehicle, but testified that she would have had enough room to maneuver out of her parking spot. She got out of her vehicle, and he rolled down his window and told her that he wanted to talk to her. He then opened his vehicle door, poked his head out, and asked Amanda again if they could talk. He testified that he did not threaten Amanda in any way. The police then arrived, so he moved his vehicle into a parking spot. The officer spoke to Amanda for quite some time before returning to the defendant's vehicle. The defendant never got to tell his side of the story to the Fairview Heights police officer and was placed under arrest for disorderly conduct. He never spoke to the Belleville police department.

¶ 17 After closing arguments and sentencing recommendations, the court took the matter under advisement. The court later found the defendant guilty of the Fairview Heights disorderly conduct charge and not guilty of the Belleville disorderly conduct charge.

¶ 18 In the criminal setting, the standards for reviewing the sufficiency of the evidence in either a bench trial or a jury trial are identical. *People v. Howery*, 178 Ill. 2d 1, 38, 687 N.E.2d 836, 854 (1997). On appeal, the reviewing court applies the reasonable doubt

standard from *People v. Collins*, 106 Ill. 2d 237, 478 N.E.2d 267 (1985). This standard of review is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Id.* at 261, 478 N.E.2d at 277. This standard is applicable in all criminal cases, with direct or circumstantial evidence. *People v. Campbell*, 146 Ill. 2d 363, 374-75, 586 N.E.2d 1261, 1266 (1992). The trier of fact is allowed to resolve testimonial conflicts, to weigh the evidence, and to draw reasonable inferences from the facts. We will not reverse a criminal conviction unless the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. *Id.* at 375, 586 N.E.2d at 1266.

¶ 19 We turn to the crime with which the defendant was charged. A person commits the crime of disorderly conduct when he knowingly does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace. 720 ILCS 5/26-1(a)(1) (West 2008). The person charged with disorderly conduct must have been consciously aware that his or her conduct was practically certain to cause a particular result. 720 ILCS 5/26-1(a)(1), 4-5(b) (West 2008).

¶ 20 In following the statutory language, courts have held that in order to find a defendant guilty of disorderly conduct, the State must plead and prove that the defendant's conduct: (1) is unreasonable, (2) is alarming or disturbing to another, and (3) threatens to provoke or actually provokes a breach of the peace. *Penn v. Chicago State University*, 162 F. Supp. 2d 968, 976 (N.D. Ill. 2001), *aff'd sub nom.*, *Penn v. Harris*, 296 F.3d 573 (7th Cir. 2002); *Kies v. City of Aurora*, 156 F. Supp. 2d 970, 985 (N.D. Ill. 2001).

¶ 21 The threshold issue in proof of disorderly conduct "is determined by the reasonableness of the conduct in relation to the surrounding circumstances." *People v. Cooper*, 32 Ill. App. 3d 516, 518, 336 N.E.2d 247, 249 (1975). What is considered reasonable is based upon the facts and circumstances of each particular case. *Id.* at 518, 336

N.E.2d at 249; *People v. Douglas*, 29 Ill. App. 3d 738, 742, 331 N.E.2d 359, 363 (1975). The court can consider the time, manner, and place of the defendant's conduct in assessing whether or not the defendant's conduct was reasonable. See *People v. Albert*, 243 Ill. App. 3d 23, 27, 611 N.E.2d 567, 569 (1993).

¶ 22 Breach of the peace is also required, but the breach does not need to occur in a public setting, so long as the defendant's actions disturb the public order. *People v. Redwood*, 335 Ill. App. 3d 189, 195, 780 N.E.2d 760, 765 (2002).

¶ 23 In this case, the defendant showed up at Amanda's home uninvited, leaving a gift at her door, and waited so that he could speak with her. When she instructed him not to touch her, he complied. He did not yell at her. He did not threaten her. He followed her to her place of employment five miles away from her apartment with the intention of continuing to speak with her to clear up any misunderstanding about the evening of June 8, 2010. There was no testimony that the defendant's driving was threatening or frightening. While Amanda and the State contend that Amanda's vehicle was blocked in, and that she was unable to exit her parking spot, we find that this fact fails to support the charge in this case because Amanda was not trying to leave her parking spot and was scheduled to work at that location. She was able to, and did, exit her vehicle, and she walked into the Walgreens store for work. Amanda does not say that the defendant yelled at her on the parking lot and, in fact, testified that she could not hear what he said. Amanda testified that the defendant did not honk his horn.

¶ 24 Based on the facts before us, we find nothing in the defendant's behavior that would indicate that he knowingly acted in such an unreasonable manner as to alarm or disturb Amanda, as required by the statute. 720 ILCS 5/26-1(a)(1) (West 2008). While we do not dispute Amanda's testimony that she was disturbed by the defendant's behavior, her subjective emotions do not negate the requisite finding that the defendant must have been

consciously aware that his conduct was practically certain to cause a particular result. *Id.*

¶ 25 Nor can we agree with the court's finding that the defendant's behavior provoked a breach of the peace. The record does not show any threat of violence, unwanted touching, shouting, profanity, or other indicia of actions which disturb the public order. *Id.*

¶ 26 Overall, construing this evidence in the light most favorable to the prosecution, we find that the State failed to prove that the defendant's actions were unreasonable and provoked a breach of the peace. While we do not find that the defendant's behavior amounted to disorderly conduct, Amanda could have initiated a civil proceeding to address the actions taken by the defendant. For the foregoing reasons, the judgment of the circuit court of St. Clair County in convicting the defendant of disorderly conduct is hereby reversed.

¶ 27 Reversed.