

No. 1-12-1992

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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.)	No. 11 MC4 1868
)	
CASH BROWN,)	Honorable
)	Stanley L. Hill,
Defendant-Appellant.)	Judge Presiding.

JUSTICE TAYLOR delivered the judgment of the court.
Justices McBride and Palmer concurred in the judgment.

ORDER

¶ 1 *Held:* Where the evidence was sufficient to convict defendant of obstructing a peace officer, the judgment was affirmed.

¶ 2 Following a bench trial, defendant Cash Brown was convicted of the misdemeanor offense of obstructing a peace officer and sentenced to one year of conditional discharge. On appeal, defendant contests the sufficiency of the evidence, maintaining that the evidence did not prove that he obstructed the officer's ability to carry out his lawful duty, or that he intended anything beyond mere argument with the officer. We affirm.

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¶ 3 At trial, Officer Pirsia Allen testified that on April 3, 2011, he and two other officers were in an alley near 50 South 19th Avenue in Maywood investigating a vehicle occupied by suspects of an armed robbery. Allen was the "safety officer," and his responsibility was to assist the other officers, who were instructing the suspects to exit their vehicle, and ensure nothing out of the ordinary occurred during the investigation. Defendant interfered with Allen as he was standing at the rear of the suspect car, thus preventing him from controlling the safety of the area. In particular, defendant approached Allen and started yelling that the individuals in the car had not done anything wrong. Allen told defendant to get back so that police could complete their investigation. Defendant initially complied, but then approached Allen a second time and stated "come on, Joe, he hadn't done anything." Defendant was about two or three feet away from Allen and was acting "a little fidgety." Allen arrested defendant because defendant's interference diverted his attention away from the safety of the officers. Allen further testified that during both the encounters, he had to move around in order to prevent defendant from reaching the other two officers. Defendant never touched Allen during the incident.

¶ 4 Defendant testified that at about 3:15 p.m. on April 3, 2011, he was driving down 19th Street when he noticed a commotion in the alley. Defendant observed that the police had stopped a black Buick with his brother inside. After pulling over, defendant went into the alley and asked Officer Allen, who was about 30 feet away from the investigation scene, if his brother was in the car. Allen instructed defendant to get away, and then defendant asked if there was any way he could talk to another officer. Allen responded "forget that," and told defendant that he was being arrested for obstructing justice. According to defendant, he never interfered with the investigation, touched Allen, or left the scene only to return a short time later.

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¶ 5 Following closing arguments, the trial court found defendant guilty of obstructing a peace officer. In doing so, the court held that Officer Allen testified credibly and, in turn, did not accept defendant's testimony that he never walked away from the scene. The court specifically stated that the incident at bar consisted of "more than mere argument," and defendant made the physical act of moving within a few feet of the officer, "being fidgety," and yelling at Allen. The court indicated that defendant's actions interrupted and prevented Allen from performing his safety duties.

¶ 6 On appeal, defendant contends that the evidence was insufficient to establish his guilt of obstructing a peace officer. He specifically argues that he did not make any physical contact with Officer Allen, impede Allen's ability to carry out his duties, or intend to obstruct police.

¶ 7 When reviewing the sufficiency of the evidence, the relevant inquiry 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. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224-25 (2009). The credibility of the witnesses, the weight to be given their testimony, and the resolution of any conflicts in the evidence are within the province of the trier of fact, and a reviewing court will not substitute its judgment for that of the trier of fact on these matters. *People v. Brooks*, 187 Ill. 2d 91, 132 (1999). Reversal is justified only where the evidence is "so unsatisfactory, improbable or implausible" that it raises a reasonable doubt as to the defendant's guilt. *People v. Slim*, 127 Ill. 2d 302, 307 (1989).

¶ 8 In order to convict defendant of obstructing a peace officer, the State must prove that (1) the defendant knowingly obstructed the officer; (2) the officer was performing an authorized act in his official capacity; and (3) the defendant knew he was a police officer. 720 ILCS 5/31-1(a)

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(West 2010). Our supreme court has held that "obstruct" encompasses physical conduct that literally creates an obstacle, as well as conduct the effect of which impedes or hinders progress. *People v. Baskerville*, 2012 IL 111056, ¶ 19. Defendant does not contest that he knew Allen was a police officer or that Allen was acting in his official capacity. Instead, defendant challenges whether he knowingly obstructed Allen.

¶ 9 The evidence in this case, when viewed in the light most favorable to the State, showed that defendant knowingly interfered with Officer Allen's ability to protect two other officers who were investigating a vehicle containing suspects in an armed robbery. Specifically, defendant approached Allen and yelled that the individuals in the car had not done anything wrong. Allen told defendant to get back, and he complied. Defendant then approached Allen a second time, stood a few feet away from him, acted "fidgety," and stated "come on, Joe, he hadn't done anything." During both encounters, Allen had to move around to prevent defendant from accessing the scene of the investigation, causing Allen's attention to be diverted away from the safety of the investigating officers. After interfering a second time, Allen arrested defendant.

¶ 10 Defendant acknowledges that under *Baskerville*, 2012 IL 111056, ¶ 29, the offense of obstructing a police officer does not necessitate proof of a physical act. However, defendant maintains that the offense still requires more than mere argument, which he alleges is all that occurred in this case. See *People v. Raby*, 40 Ill. 2d 392, 399 (1968); *People v. Berardi*, 407 Ill. App. 3d 575, 582 (2011); *People McCoy*, 378 Ill. App. 3d 954, 962 (2008) (stating that verbal resistance or argument is not a violation of the obstruction statute). Despite defendant's argument to contrary, the record shows that defendant's conduct amounted to more than mere argument, and, in fact, consisted of a physical act.

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¶ 11 In approaching Officer Allen, attempting to gain access to the investigation scene, and refusing Allen's command to get away, defendant forced Allen to move around in order to block his path. Even though defendant never touched Allen, his conduct amounted to a physical act in that he forced Allen to move to keep defendant at bay. See *City of Chicago v. Meyer*, 44 Ill. 2d 1, 6 (1969); *People v. Synnott*, 349 Ill. App. 3d 223, 227 (2004) (refusing a police officer's lawful order to move can constitute a physical act). Furthermore, Allen specifically testified that defendant's actions hindered his ability to concentrate on the safety of the investigating officers, contradicting defendant's argument that "there was no evidence that [his] actions of approaching Allen and saying that the men in the car did nothing wrong, interrupted the investigation of the armed robbery." Significantly, the trial court rejected defendant's argument, finding that defendant's actions "satisf[ied] the physical act requirement," and were "more than mere argument." Although defendant appears to want this court to reweigh the evidence, it is the responsibility of the trier of fact to resolve conflicts in testimony, weigh the evidence, and draw reasonable inferences therefrom. *People v. Campbell*, 146 Ill. 2d 363, 375 (1992).

¶ 12 In reaching this conclusion, we find *Kies v. City of Aurora*, 156 F. Supp. 2d 970 (N.D. Ill. 2001), relied on by defendant, distinguishable from the case at bar. In *Kies*, the defendant walked alongside an arrestee and the arresting officer and asked the officer questions while he escorted the arrestee toward a school entrance. The *Kies* court concluded that because the defendant's actions did not satisfy the obstruction statute's physical act requirement, and because her actions did not impact or hinder the officer in the performance of his duties, the officer did not have probable cause to arrest her for obstructing a police officer. *Id.* at 983-84. Here, unlike *Kies*, defendant got directly in front of Officer Allen and tried to gain access to the investigating officers, which resulted in Allen having to move around in order to prevent defendant from

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getting through. It is also important to note that *Kies* was decided before *Baskerville*. The *Kies* court found no probable cause for obstruction in part because walking next to the officer and asking him questions did not meet the "physical act" requirement of obstruction. *Id.* at 983. As the State notes in its brief, since *Baskerville*, it is "clear that the focus is on whether the officers were actually obstructed, not on an artificial distinction concerning whether the defendant committed a 'physical act.'" *People v. Nasolo*, 2012 IL App (2d) 101059, ¶ 12.

¶ 13 We also find unpersuasive defendant's argument that the evidence was insufficient to establish that he *knowingly* obstructed Officer Allen. Defendant specifically maintains that he was simply questioning the police action and did not know that this would impede Allen's performance of his duties, particularly where Illinois courts have held that police officers are trained to be less easily provoked than ordinary citizens, and more difficult to alarm, disturb, and insult. See, e.g., *People v. Ellis*, 141 Ill. App. 3d 632, 634 (1986) (noting that a peace officer must exercise the greatest degree of restraint in dealing with the public and must not conceive that every threatening or insulting word, gesture, or motion amounts to disorderly conduct); *People v. Slaton*, 24 Ill. App. 3d 1062, 1064 (1974) (reversing conviction for disorderly conduct where the defendant's words "were not of the nature to evoke a violent response, especially from a police officer presumably trained to preserve the public order"). As stated above, the trial court heard the witnesses and was free to assess their credibility and draw reasonable inferences from the evidence. *Brooks*, 187 Ill. 2d at 132. We find no reason to upset the trial court's conclusion that defendant knew he was obstructing Allen, particularly where the record, when viewed in the light most favorable to the State, shows that defendant approached Allen a second time after being instructed to get away. See *People v. O'Malley*, 356 Ill. App. 3d 1038, 1046 (2005)

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(finding that the defendant knowingly obstructed the officer when he refused an order to move his feet backward to facilitate a pat-down search).

¶ 14 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 15 Affirmed.