FIRST DIVISION
June 2, 2014

No. 1-12-2252

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. M1-501-548
	)	TW 310523
	)	TW 310524
	)	TW 310525
	)	
SHARON JENKINS,	)	Honorable
	)	Diann K. Marsalek,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Connors and Justice Hoffman concurred in the judgment.

ORDER

¶ 1 ***Held*:** By agreement, defendant's conviction for operating an uninsured motor vehicle is reversed and remanded for a new trial under the proper standard of proof. Defendant's remaining convictions are affirmed because the circumstantial evidence was sufficient for the court to find by a preponderance of the evidence that defendant failed to stop at a stop sign.

¶ 2 Following a bench trial, defendant Sharon Jenkins was found guilty of driving while her license was suspended, operating an uninsured motor vehicle, and failing to stop at a stop sign.

The trial court sentenced defendant to four months of court supervision and 30 hours of community service. On appeal, defendant contends the State failed to show by a preponderance of the evidence that she failed to stop at a stop sign because there was no testimony or physical evidence to prove that violation. In addition, the parties agree that defendant's conviction for operating an uninsured motor vehicle must be reversed and remanded for a new trial because the trial court applied the incorrect standard of proof. We reverse defendant's conviction for operating an uninsured motor vehicle and remand this case for a new trial on that charge only. We affirm defendant's remaining convictions.

¶ 3 Defendant was tried on charges of driving while her license was suspended, operating an uninsured motor vehicle, failing to stop at a stop sign, and leaving the scene of a property damage accident. At trial, Cameron Skelding testified that about 5:50 a.m. on April 23, 2011, he was driving a red Saturn Vue sport-utility vehicle (SUV) southbound on Racine Avenue. His brother, Owen, was sitting behind him in the vehicle. Racine Avenue has one lane of traffic going in each direction. At the intersection of Racine Avenue and 13th Street, there was one stop sign for the traffic heading westbound on 13th Street. The traffic on Racine Avenue had no stop signs. As Cameron drove through the intersection at 13th Street, a tan minivan driven by defendant struck the driver's side of the SUV near the fuel tank toward the rear of the vehicle. The force of the impact was so strong that it pushed the SUV off the road and into a flower bed, totaling the SUV. Defendant continued driving the minivan westbound on 13th Street, turned around, drove eastbound on 13th Street back through the intersection at Racine Avenue, then drove through a chain-link fence, stopping at the end of the fence. When the Chicago Fire Department arrived at the scene, defendant ran about 20 feet before she was stopped by emergency personnel.

¶ 4 Owen Skelding testified substantially the same as his brother Cameron, stating that they were proceeding south on Racine Avenue when the left side of their vehicle was hit by a light-colored minivan driven by defendant. Owen also noted that the traffic on 13th Street had a stop sign, but there was no stop sign on Racine Avenue. The impact pushed the SUV to the right side of the road and onto the sidewalk between a light post and a flower bed.

¶ 5 Chicago police officer Floodas testified that he arrived at the scene and saw a red Saturn "smashed into a flower bed." The wall of the flower bed was made of brick and stood about two feet high. Officer Floodas also saw that a brown minivan had driven through a fence and was on city property inside the fence. Defendant was being treated by Chicago Fire Department personnel inside an ambulance. Officer Floodas asked defendant for proof of insurance, but she did not provide any. The officer also asked for her driver's license, and defendant handed him her state identification card. Officer Floodas checked defendant's name in his computer and learned the status of her driving privileges. Officer Floodas acknowledged that he did not see defendant driving and did not see how the accident occurred.

¶ 6 The State presented defendant's certified driving abstract which indicated the suspension of defendant's driver's license was in effect on the date of the accident in this case. Following the State's case, the trial court granted defendant's motion for a directed finding as to the charge of leaving the scene of a property damage accident. The court denied the motion as to the remaining three offenses. The defense submitted a photograph of the intersection depicting the single stop sign, and rested.

¶ 7 During closing arguments, the State asserted, *inter alia*, that it had proven "beyond a preponderance of the evidence" that defendant failed to present proof of insurance. Following arguments, the trial court found that the driving abstract indicated that defendant's license was suspended on the date of the accident, and therefore, she was guilty of driving while her license

was suspended. The court further found that a preponderance of the evidence established that defendant failed to stop at the stop sign. Finally, the court found that "the evidence by a preponderance" also established that defendant was operating an uninsured motor vehicle.

¶ 8 The trial court subsequently denied defendant's motion for a new trial. In doing so, the court summarized the testimony from the Skelding brothers and expressly found that "all the evidence even circumstantial would meet the burden that the state had on this case to show that the defendant failed to stop at the stop sign." Thereafter, the court sentenced defendant to four months of court supervision and 30 hours of community service.

¶ 9 On appeal, as a threshold matter, the parties agree that defendant's conviction for operating an uninsured motor vehicle must be reversed and remanded for a new trial because the trial court applied the incorrect standard of proof for that offense. For a defendant to be found guilty of operating an uninsured motor vehicle, the State must present evidence that proves the defendant guilty beyond a reasonable doubt. *People v. Merritt*, 318 Ill. App. 3d 115, 117 (2001). In this case, the record shows that the prosecution and the trial court erroneously applied a lesser standard and required only a preponderance of the evidence in finding defendant guilty of the offense. Accordingly, we must reverse defendant's conviction for operating an uninsured motor vehicle and remand this case for a new trial on that charge, where the reasonable doubt standard must be applied. *People v. Virella*, 256 Ill. App. 3d 635, 638-39 (1993).

¶ 10 Defendant next contends the State failed to establish by a preponderance of the evidence that she failed to stop at the stop sign because there was no testimony or physical evidence to prove that violation. Defendant argues that neither of the Skelding brothers testified that they saw defendant fail to stop, and Officer Floodas did not see the accident.

¶ 11 Failure to stop at a stop sign is a violation of the Municipal Code of Chicago. Chicago, Ill., Mun. Code § 9-24-010 (1990). Municipal traffic violations are quasi-criminal offenses that

require proof by a preponderance of the evidence rather than proof beyond a reasonable doubt. *City of Chicago v. Hertz Commercial Leasing Corp.*, 71 Ill. 2d 333, 351-52 (1978). The preponderance of the evidence standard is met where the evidence establishes that the proposition that the defendant committed the violation is more probably true than not. *People v. Love*, 404 Ill. App. 3d 784, 787 (2010). On review, the trial court's factual findings regarding the violation of a municipal ordinance will not be reversed unless they are against the manifest weight of the evidence. *County of Kankakee v. Anthony*, 304 Ill. App. 3d 1040, 1048 (1999). A finding is against the manifest weight of the evidence only where the opposite result is clearly evident. *Love*, 404 Ill. App. 3d at 787. Our supreme court has "consistently held that a conviction may be based solely on circumstantial evidence." *People v. Patterson*, 217 Ill. 2d 407, 435 (2005). "In a case based on circumstantial evidence, each link in the chain of circumstances does not need to be proved by a preponderance of the evidence if all the evidence considered collectively satisfies the trier of fact by a preponderance of the evidence that the defendant is guilty." *Love*, 404 Ill. App. 3d at 788.

¶ 12 Here, we find that the circumstantial evidence was sufficient to allow the trial court to find by a preponderance of the evidence that defendant failed to stop at the stop sign. On the date of this accident, there was only one stop sign located at the intersection of Racine Avenue and 13th Street. Defendant, driving westbound on 13th Street, was required to stop at Racine Avenue, while the traffic on Racine Avenue had no stop sign. Both Cameron and Owen Skelding testified that as they drove south on Racine Avenue and passed through the intersection at 13th Street, defendant drove her minivan into the left side of their vehicle. The brothers both testified that the force of the impact was so strong that it pushed their vehicle off the road. Cameron testified that their vehicle was pushed into a flower bed and totaled. Owen testified that their SUV was pushed onto the sidewalk on the right side of the road, between a light post

and a flower bed. In addition, Officer Floodas testified that when he arrived at the scene, he saw the red Saturn "smashed" into the brick flower bed.

¶ 13 The undisputed evidence showed that defendant struck the Skeldings' vehicle with such force that she pushed their SUV off the road and onto the sidewalk, where it smashed into a brick flower bed. The SUV was damaged beyond repair. Based on this evidence, the trial court's guilty finding was not against the manifest weight of the evidence.

¶ 14 For these reasons, we reverse defendant's conviction for operating an uninsured motor vehicle and remand this case to the circuit court for a new trial on only that offense. We affirm the judgment of the circuit court in all other respects.

¶ 15 Affirmed in part; reversed and remanded in part.