2014 IL App (1st) 132399-U

FIFTH DIVISION
AUGUST 22, 2014

No. 1-13-2399

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. 122000383301
	)	
CRISTIAN PAZMINO,	)	Honorable
	)	Jeffrey L. Warnick,
Defendant-Appellant.	)	Judge Presiding.

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

O R D E R

¶ 1 *Held*: Judgment affirmed over defendant's challenge to the sufficiency of the evidence.

¶ 2 Following a bench trial, defendant Cristian Pazmino was found guilty of resisting a peace officer, and sentenced to 1-year of reporting conditional discharge and 120 hours of community service. On appeal, he contends that the State failed to prove him guilty beyond a reasonable doubt because his uncontradicted and unrebutted testimony established that he did not know that a peace officer was placing him under arrest.

¶ 3 At trial, Skokie community service officer Stapleton testified that at 12:30 a.m. on September 21, 2012, he was in full uniform in a marked car on routine patrol when he noticed a car blocking traffic near 3327 Dempster Street in Skokie. He observed a large group of people on the sidewalk there watching defendant and another person fight. He called for assistance and immediately activated the emergency lights on his vehicle. Skokie police officer Groberski arrived in a marked police car and in uniform. At the time, defendant was on top of another person fighting on the ground in a lane of traffic, and Officer Groberski was unsuccessful in his attempt to separate them. Officer Stapleton then ran in to assist him and the officers told defendant to "stop resisting." The crowd was shouting at the officers, who announced their office, and told them to get back or they would be arrested. When Officer Groberski separated the two, Stapleton held down the other person. Defendant, who was on his stomach in a fetal position, fought against Officer Groberski's attempts to release his arms out from under him. After several minutes and "blows" to defendant's torso, defendant finally released his arms, and Officer Groberski arrested him.

¶ 4 Defendant testified that on the night in question he went to a party at the bar located at 3327 South Dempster Street in Skokie. An altercation occurred outside the bar with defendant and 10 other people, and he received a cut to his eye which required stitches. While defendant was on top of his friend, Dylan, and fighting with him, someone tried to pull him off. He did not know it was an officer, until he felt the handcuffs on him, and he understood that he was being placed under arrest and stopped resisting. Defendant denied hearing someone say police or stop resisting.

¶ 5 At the close of evidence, the court found defendant guilty of resisting a peace officer. The court noted that the officers were in full uniform and told defendant to stop resisting, and that Officer Groberski attempted to separate defendant from the other person for several minutes, but defendant failed to submit to the police.

¶ 6 On appeal, defendant contends that the evidence was insufficient to prove him guilty of resisting a peace officer beyond a reasonable doubt. He maintains that his uncontradicted and unrebutted testimony established that he did not know that a peace officer was placing him under arrest.

¶ 7 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 be reversed only if the evidence is so unsatisfactory as to raise a reasonable doubt of guilt. *Campbell*, 146 Ill. 2d at 375. For the reasons that follow, we do not find this to be such a case

¶ 8 To sustain defendant's conviction for resisting a peace officer, the State must prove, in relevant part, that defendant knowingly resisted the performance of one known to him to be a peace officer. 720 ILCS 5/31(a) (West 2010). Defendant only challenges whether the evidence was sufficient to prove that he knew that the person attempting to pull him off his friend, and remove his hands out from under him, was a peace officer.

¶ 9 The evidence, as set forth above, showed that community service officer Stapleton was in full uniform in a marked car on routine patrol when he observed a large group of people watching defendant and another person fight. He immediately activated the emergency lights on his vehicle, and called for assistance. Shortly thereafter, Skokie police officer Groberski arrived in a marked police car and full uniform, and approached defendant, who was on top of another person on the ground. His first attempt to separate the two was unsuccessful, but he eventually did so. Officer Groberski then tried to remove defendant's hands out from underneath him which defendant fought against while on his stomach in a fetal position. The officers told defendant to "stop resisting." The crowd of people shouted at the officers, who told them to get back, and announced their office. After several minutes and blows by Officer Groberski to defendant's torso, defendant released his arms, and was handcuffed and taken into custody. This evidence was clearly sufficient to allow the trier of fact to conclude beyond a reasonable doubt that defendant knowingly resisted a peace officer in the performance of his duties, and did so with the knowledge that a peace officer was placing him under arrest. *People v. Miller*, 199 Ill. App. 3d 603, 611-12 (1990); *People v. Wareberg*, 44 Ill. App. 3d 78, 82 (1976); 720 ILCS 5/31(a) (West 2010).

¶ 10 Although defendant testified that he did not know the person placing him under arrest was a police officer, and that this reality only dawned on him when he was handcuffed, causing him to stop resisting, the trial court found his claim wanting under the circumstances of the case. The court was not required to believe defendant's self-serving testimony that he did not know the person attempting to place him under arrest was a peace officer (*People v. Moreira*, 378 Ill. App. 3d 120, 130 (2007)), over the testimony of Officer Stapleton that the officers, in full uniform,

told defendant to stop resisting and announced their office to the crowd in defendant's presence. Defendant chose otherwise, and we find no reason to disturb the credibility determinations made by the trial court (*People v. Berland*, 74 Ill. 2d 286, 306-07 (1978)), nor its finding of guilt (*People v. Bofman*, 283 Ill. App. 3d 546, 553 (1996)).

¶ 11 Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 12 Affirmed.