2011 IL App (2d) 100416-U
No. 2–10–0416
Order filed August 12, 2011

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. ELIZABETH L. GASKINS, Defendant-Appellant.	)	Appeal from the Circuit Court of Carroll County. Nos. 09—CM—70 09—CM—71 Honorable John F. Joyce, Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Presiding Justice Jorgensen and Justice Birkett concurred in the judgment.

ORDER

Held: The State presented sufficient circumstantial evidence to prove defendant guilty beyond a reasonable doubt of disorderly conduct for calling 911 to make a false report.

¶ 1 Following a jury trial in the circuit court of Carroll County, defendant, Elizabeth L. Gaskins, was convicted of one count of disorderly conduct (false 911 call) (720 ILCS 5/26–1(a)(12) (West 2008)) and one count of resisting or obstructing a peace officer (720 ILCS 5/31–1(a) (West 2008)). On appeal, defendant challenges only the disorderly-conduct conviction, maintaining that the State

failed to prove her guilty beyond a reasonable doubt. Specifically, defendant claims that there was no evidence that she made the 911 call that formed the basis of the disorderly-conduct charge. We disagree and affirm.

¶ 2 On April 21, 2009, claimant was charged by criminal complaint with one count of disorderly conduct (720 ILCS 5/26–1(a)(12) (West 2008)) and one count of resisting or obstructing a peace officer (720 ILCS 5/31–1(a) (West 2008)). The former charge alleged in relevant part that on or about April 21, 2009, defendant committed the offense of disorderly conduct in that she "called the number '911' for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call was made, [she] knew there was no reasonable ground for making the call or transmission and further knew that the call or transmission could result in the emergency response of any public safety agency." The matter proceeded to a jury trial on March 29, 2010.

¶ 3 At trial, the State first called Officer Chris Long of the Savanna police department. Officer Long testified that shortly after 7 a.m. on April 21, 2009, he was dispatched to defendant's home at 440 Bowen Street, following notification from an alarm company that defendant's burglar alarm had been activated. Upon his arrival at the address, Officer Long observed Randolph Plote, a friend of defendant, standing on the front porch. Plote told Officer Long that he had been on the porch since 4 a.m. because defendant had "thrown him out again."

¶ 4 Officer Long knocked on the front door. As he did so, he heard defendant yelling at Plote through the door that he could not come inside yet. Officer Long identified himself, and defendant then opened the door. Officer Long told defendant to deactivate her alarm. Defendant indicated that she would do so, but then began to complain that she was having problems with Plote. Defendant

stated that Plote was outside because he had been drinking, but other than that, things were fine. According to Officer Long, defendant never indicated that she wanted to sign a complaint against Plote. Since defendant did not appear to be injured and Plote did not attempt to enter the residence, Officer Long did not believe there was an emergency requiring his assistance. As such, Officer Long informed defendant that he was leaving. However, defendant yelled that he could not leave because she was not done with him yet. As Officer Long walked away, defendant stated that she would call 911 to get Officer Long to come right back. Officer Long warned defendant three or four times that if she called 911, he would arrest her for false reporting.

¶ 5 Officer Long drove away from defendant's home, but within two minutes he was again dispatched to the residence. When Officer Long arrived at the home the second time, he did not observe anyone on the porch. Officer Long knocked on the door, and defendant answered. Defendant immediately began yelling about being able to get Officer Long to return. Officer Long asked defendant why she called 911. Defendant did not deny placing the phone call, and she told Officer Long that "she wasn't done with [him] and that she could get [him] back." Officer Long then looked around to determine if there was an emergency. Finding none, he told defendant that she was under arrest. Defendant then sat down on the stairs and attempted to make a call with her cell phone. Officer Long instructed defendant to hang up. When defendant refused, Officer Long disconnected the call by closing the phone. At that point, the house phone began to ring and defendant answered the call. When that call was finished, defendant went back to sit on the stairs. Officer Long then directed defendant to stand up so that he could handcuff her. Defendant tried to escape by running up the stairs. However, Officer Long was able to grab defendant's ankle and stop her. As Officer Long escorted defendant down the stairs, Chief Michael Moon of the Savanna police department

entered the residence. Officer Long testified that although he was able to handcuff defendant, he had difficulty doing so because she was "thrashing" around. As Officer Long led defendant out to his vehicle, defendant "went limp" and sat down, forcing Officer Long to pick her up and carry her to the car. Chief Moon corroborated Officer Long's testimony from the time he arrived at defendant's residence until Officer Long placed defendant in the car.

¶ 6 Following Chief Moon's testimony, the State rested. Thereafter, defendant moved for a directed verdict on the disorderly-conduct charge, asserting that the State failed to present evidence that defendant called 911 after Officer Long left her residence the first time. The trial court denied the motion. Defendant then called Plote to the witness stand.

¶ 7 Plote testified that he lived with respondent in the house on Bowen Street. In the early morning hours of April 21, 2009, defendant had locked Plote out of the residence and would not let him back in. Plote stated that his wallet, shoes, and clothes were inside the house, and he had nowhere else to go. Plote was on the front porch when Officer Long arrived the first time. Plote testified that he walked into the backyard after awhile because he could not stand listening to Officer Long and defendant argue. Plote testified that he was in the back when Officer Long returned to the residence. At that time, Plote heard Officer Long call defendant a "crazy woman or something like that." He then heard defendant tell Officer Long to leave her alone. The next thing Plote recalled was Officer Long handcuffing defendant. Plote testified that defendant was wearing a nightgown at the time and defendant asked Officer Long to wait so that she could get dressed. However, Officer Long told defendant to "sit there and behave." At that point, Plote walked away. After the police took defendant away, Plote entered the house to get money and then went to the police station to bond defendant out.

¶ 8 Plote denied threatening defendant on April 21, 2009. Plote added that the police neither asked him to leave defendant's property on April 21 nor did they take him away. He also denied calling 911 on April 21. Plote admitted that he was intoxicated at the time the events of April 21 occurred. He also admitted that on a previous occasion he had broken a window at defendant's residence. He stated, however, that he later had the window replaced.

¶ 9 Defendant testified that she co-owns the house at 440 Bowen Street and that the residence is equipped with a burglar alarm. Defendant testified that only she knows the security code that activates and disarms the alarm system. Defendant also noted that early in April 2009, Plote had broken one of her windows. The police officer who responded to that call threatened to jail Plote if he did not replace the window in 24 hours. Plote elected to replace the window.

¶ 10 Defendant denied calling 911 prior to Officer Long's arrival on April 21, 2009. Defendant explained that on the morning of April 21, 2009, only she and Plote were at the residence. Defendant asked Plote to leave because he was drunk. Plote triggered the alarm at some point. Defendant disarmed the alarm and reset it. She then received a call from APX, the alarm company. Defendant told APX that the alarm was okay. At 7 a.m., defendant was in bed when she heard a knock on her door. Defendant went to the door and observed Officer Long and Plote on the front porch. Defendant testified that she was only wearing a nightgown, so she went upstairs to put on a "hoodie" before answering the door.

¶ 11 Defendant testified that when she returned to the door, she told Officer Long that Plote was drunk and that she wanted him off of her property. However, Officer Long did not remove Plote from the premises. Rather, Officer Long told defendant that she did not need any assistance, and he walked away. Defendant responded that she was going to call APX and tell them that she did not

feel safe because Officer Long allowed a drunk man to remain on her property. Officer Long told defendant that if she called 911, he would arrest her. Defendant denied making the 911 call that brought Officer Long back to her house. She admitted, however, that she called 911 while she was sitting on the stairs and Officer Long was arresting her.

¶ 12 Following defendant's testimony, the parties presented closing arguments. The jury was then instructed and began deliberations. Ultimately, the jury returned guilty verdicts on both charges. Thereafter, the trial court denied defendant's motion for a new trial and the matter proceeded to sentencing. Defendant was sentenced to a 30-day jail term for disorderly conduct and a concurrent 60-day term of imprisonment for resisting arrest.

¶ 13 On appeal, defendant argues that the State failed to prove her guilty beyond a reasonable doubt of the disorderly-conduct charge. According to defendant, the State failed to present any evidence that she placed the 911 call that brought Officer Long back to her residence after he initially left.

¶ 14 As a preliminary matter, we address the appropriate standard of review. Defendant argues that her claim that she was not proven beyond a reasonable doubt does not entail an assessment of the credibility of the witnesses, but only a determination whether the uncontested set of facts sufficed to meet the State's burden of proof. As such, defendant urges this court to evaluate her appeal using the *de novo* standard of review. The State, however, claims there is a factual dispute, namely whether defendant did in fact make the 911 call that underlies the disorderly-conduct conviction. We agree with the State that a factual dispute exists. We now turn to the merits.

¶ 15 When considering a challenge to a criminal conviction based upon the sufficiency of the evidence, it is not our function to retry the defendant. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011).

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. Smith,* 185 Ill.2d 532, 541 (1999). This means that we must draw all reasonable inferences from the record in favor of the State. *Beauchamp*, 241 Ill. 2d at 8. Determinations of witness credibility, the weight to be given testimony, and the reasonable inferences to be drawn from the evidence are within the province of the trier of fact. *People v. Norris*, 399 Ill. App. 3d 525, 531 (2010). We will not reverse a conviction unless the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of defendant's guilt. *People v. Billups,* 384 Ill. App. 3d 844, 846 (2008).

¶ 16 Defendant was convicted of disorderly conduct for calling 911 to make a false report. 720 ILCS 5/26–1(a)(12) (West 2008). To establish a violation of this statute, the State was required to prove: (1) defendant made a phone call to 911; (2) defendant reported a false alarm or complaint; (3) there was no reasonable ground for making the call; and (4) defendant knew that the call could result in the emergency response of any public safety agency. 720 ILCS 5/26–1(a)(12) (West 2008); *People v. Klepper*, 234 Ill. 2d 337, 349 (2009). At issue in this case is the first element. As noted above, defendant insists that the State failed to present any evidence that she placed the 911 call that brought Officer Long back to her residence after he initially left. She claims that it was the alarm company who made that call. She notes that Officer Long did not personally speak to the individual who made the second 911 call. Thus, she reasons, he could not say whether the person making the call was defendant or the alarm company.

¶ 17 However, a criminal conviction may be based on circumstantial evidence if it constitutes proof beyond a reasonable doubt of the charged offense. *People v. McPeak*, 399 Ill. App. 3d 799,

801 (2010). "Circumstantial evidence is 'proof of facts and circumstances from which the trier of fact may infer other connected facts which reasonably and usually follow according to common experience.' " *McPeak*, 399 Ill. App. 3d at 801, quoting *People v. Stokes*, 95 Ill. App. 3d 62, 68 (1981). Moreover, it is not necessary that each link in the chain of circumstances be proved beyond a reasonable doubt as long as all the circumstantial evidence taken together satisfies the trier of fact beyond a reasonable doubt of the defendant's guilt. *In re Gregory G.,* 396 Ill. App. 3d 923, 929 (2009). Here, the evidence viewed in the light most favorable to the State established as follows. Officer Long arrived at defendant's residence the first time to respond to a call placed by defendant's alarm company. Officer Long determined that no emergency existed. As he was walking back to his car to leave, defendant yelled that she did not want him to leave and that she would get him back by calling 911. Officer Long was dispatched back to defendant's house only two minutes later. When Officer Long returned to defendant's residence the second time, he asked her why she had called 911. Defendant did not deny making the phone call, and she told Officer Long that she was not done with him and she knew she could get him to return to her residence. Officer Long testified that he did not see anyone at defendant's home when he came there the second time and he again determined there was no emergency. Further, Plote expressly denied making the 911 call, and he testified that he was on the porch and then in the backyard, so he did not have access to any phones inside the residence.

Based on the foregoing evidence, we conclude that there was sufficient circumstantial evidence to support defendant's conviction of disorderly conduct beyond a reasonable doubt. In particular, the trier of fact could have reasonably inferred that defendant's claim that she called the alarm company and that the alarm company contacted 911 was not credible given the short time

frame involved (which brought Officer Long back to defendant's residence just two minutes after he originally left), Officer Long's testimony that defendant threatened to call 911 as he left defendant's residence the first time, and defendant's statement that she knew she could get Officer Long to return to her home. As noted above, under the applicable standard of review, we must allow all reasonable inferences from the record in favor of the prosecution. *Beauchamp*, 241 Ill. 2d at 8. Given this standard, and viewing the evidence in the light most favorable to the State, we cannot say that a rational trier of fact could not have found defendant guilty of disorderly conduct beyond a reasonable doubt. Accordingly, we reject defendant's contention that her conviction should be reversed.

¶ 18 In sum, the State's evidence was sufficient to prove defendant guilty beyond a reasonable doubt of disorderly conduct for making a false 911 call. Accordingly, we affirm the judgment of the circuit court of Carroll County.

¶ 19 Affirmed.