2016 IL App (2d) 150593-U
No. 2-15-0593
Order filed June 30, 2016

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. TOM B. CONNOLLY, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of Ogle County. No. 13-CF-209 Honorable John C. Redington, Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Hutchinson and Spence concurred in the judgment.

ORDER

¶ 1 *Held*: The State proved defendant guilty beyond a reasonable doubt of aggravated driving under the influence of alcohol, specifically that defendant had driven, and therefore was in "actual physical control" of the vehicle. Although defendant was not seen driving, there was sufficient circumstantial evidence to establish that defendant had driven the vehicle where defendant was observed crawling out of the vehicle after it was involved in a single-car rollover accident, he admitted to a paramedic that he had been driving, he told several other individuals that he was alone or the sole occupant of the vehicle, and, other than passersby, no one else was found in the immediate vicinity of the overturned vehicle.

¶ 2 Following a bench trial in the circuit court of Ogle County, defendant, Tom B. Connolly, was convicted of aggravated driving under the influence of alcohol (aggravated DUI) (625 ILCS

5/11-501(a)(2), (d)(2)(C) (West 2012)) and driving while his license was suspended (625 ILCS 5/6-303 (West 2012)). Following the denial of defendant's motion for acquittal or a new trial, the trial court sentenced defendant to a three-year term of imprisonment for aggravated DUI and a concurrent 10-day sentence for driving with a suspended license. On appeal, defendant challenges only his conviction of aggravated DUI, arguing that the trial court erred in finding him guilty because the State failed to establish beyond a reasonable doubt that he was in actual physical control of any vehicle. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant's convictions stem from events occurring on the evening of May 2, 2013. On that date, defendant was observed crawling out of an overturned vehicle on the side of a road. After emergency personnel were contacted, defendant was arrested for the offense of driving under the influence of alcohol (DUI). Defendant was also ticketed for driving while his license was suspended, operating an uninsured motor vehicle, and failure to reduce speed. On October 22, 2013, defendant was charged by information with aggravated DUI in connection with the events of May 2, 2013. The information alleged in relevant part that defendant "drove a motor vehicle, being a red Dodge Ram, on a public roadway, Illinois Route 2, at a time when the defendant was under the influence of alcohol, in violation of 625 ILCS 5/11-501(a)(2) and this being the defendant's fourth (4th) violation of 625 ILCS 5/11-501(a) or a similar provision." Defendant waived his right to a jury, and the cause proceeded to a bench trial on January 13, 2015, at which the following evidence was presented.[1]

[1] At some point, the State was furnished an insurance card, so the charge of operating an uninsured motor vehicle was dismissed prior to trial.

¶ 5 John Whipple testified for the State that on the evening of May 2, 2013, he was driving northbound on Route 2 from Oregon to Byron, when he encountered paint buckets and other debris in the roadway. Whipple continued driving and saw an overturned vehicle in a ditch on the west side of the roadway. Whipple stopped, called 9-1-1, and walked towards the vehicle. As Whipple got closer to the overturned vehicle, he observed defendant attempting to get out. Whipple could not remember if defendant was exiting the driver's or passenger's side of the vehicle. Whipple testified that when he approached the vehicle, only defendant and another passerby were at the scene. Whipple did not notice anyone walk along Route 2 between Oregon and Byron prior to encountering the overturned vehicle. On cross-examination, Whipple testified that as defendant crawled out of the vehicle, defendant thought there may have been someone with him. Whipple looked inside the vehicle, but did not see anyone else. Whipple then walked down the roadway south 50 feet looking for anyone who might have been thrown from the vehicle, but found no one.

¶ 6 Betty Ferris, a paramedic with the Oregon Ambulance Company, testified that she was dispatched to an accident on Route 2 at around 11 p.m. on May 2, 2013. As Ferris was exiting the ambulance, the fire fighters brought defendant to her. Ferris noticed that defendant had "a lot of paint on him" and was "a little obnoxious" when she began to treat him. Ferris had a conversation with defendant, but could not recall what defendant said regarding how the accident occurred. Ferris testified that she asked defendant if he was the driver of the vehicle and defendant responded in the affirmative. Ferris also asked defendant if anyone else was with him. Ferris was unsure of defendant's response to that question, but thought that he said he was alone. Ferris noted the odor of alcohol emanating from defendant's mouth during her conversation with and treatment of him. Ferris asked defendant if he had been drinking, and defendant responded

that he had stopped on his way from painting and had consumed six beers. Ferris testified that she did not see any injuries on defendant other than a cut on his elbow. Ferris transported defendant to KSB Hospital in Dixon.

¶ 7 On cross-examination, Ferris testified that between May 2013 and her retirement in June 2014, she participated in about 600 ambulance calls. Ferris testified that she prepared a written report in relation to the accident involving defendant. Ferris indicated, however, that she did not record all of her observations at the accident scene in that report. In particular, Ferris stated that she independently recollected her conversation with defendant, including defendant's statement that he was driving and that he was alone in the vehicle. Ferris further testified that defendant was uncooperative with treatment and would not answer questions about the accident after a certain point. Over defense counsel's objection, the court permitted Ferris's testimony that defendant appeared to be drunk based upon her prior experiences observing intoxicated persons as a paramedic. Ferris identified defendant's group exhibit one as her written report and a copy of the bill from the ambulance. Without objection, defendant's group exhibit one was admitted into evidence.

¶ 8 On redirect examination, Ferris testified that the accident involving defendant stood out in her memory as unique because defendant had paint on his clothes and the ambulance had to be cleaned to remove paint. She also noted that her report was intended as a summary of the patient's condition and therefore would not have included every detail she learned about the accident.

¶ 9 Ogle County Sheriff's Deputy Christopher Thiel testified that he responded to a single-vehicle rollover accident involving defendant on May 2, 2013. Upon his arrival, Deputy Thiel observed a red Dodge pickup truck on its roof. There were also several "paint barrels" scattered

on the roadway. Deputy Thiel testified that a passerby identified defendant as the driver of the overturned truck. Deputy Thiel approached defendant and began a conversation. After identifying himself, defendant told Deputy Thiel that he did not remember who was driving the truck prior to the accident, but that he was the sole occupant. Defendant also told Deputy Thiel that he did not have a valid Illinois driver's license. As defendant stood on the side of the road, Deputy Thiel observed that defendant was covered in paint. Deputy Thiel further observed that defendant was swaying three to four inches side-to-side, had red, bloodshot eyes, was slurring his words, and had an odor of alcohol emanating from his person. Deputy Thiel did not observe any injuries to defendant. In addition, Deputy Thiel did not see anyone else inside the truck and no one was found to be trapped under the truck.

¶ 10 After confirming that defendant's driver's license had been revoked, Deputy Thiel visited defendant in the hospital emergency room 30 to 40 minutes later. There, Deputy Thiel again spoke with defendant. Defendant indicated that he could not remember what happened, except that he was on his way home and got lost. Deputy Thiel noted that during the conversation at the hospital, defendant kept drifting asleep and would awaken to finish his sentences. Deputy Thiel read defendant the "Warning to Motorists" and asked him to submit to a chemical or breath test, but defendant refused. Defendant was discharged from the hospital while Deputy Thiel was present, approximately 25 to 30 minutes after Deputy Thiel arrived.

¶ 11 On cross-examination, Deputy Thiel testified that he independently recalled details of the accident due to its uniqueness. Defendant told Deputy Thiel that he could not remember if anyone was with him at the time of the accident or how he got there, but defendant indicated that he was the only person in the vehicle. Over the State's objection, the court permitted Deputy Thiel to testify that while at the accident scene he "hear[d] something about somebody at the fire

station" in Oregon. Following Deputy Thiel's testimony, the court admitted into evidence People's exhibit one, a certified abstract of defendant's driving record. The State then rested. Subsequently, defendant's motion for a directed finding was denied by the trial court.

¶ 12 Defendant's first witness was Robert Britz, Jr. Britz, Jr., testified that he is defendant's stepbrother and a foreman for the Robert W. Britz Painting Company (Britz Painting). Britz, Jr., testified that he was out of the country on May 2, 2013, but reviewed "work records" for the week. Britz, Jr., testified on May 2, 2013, a four-man crew comprised of defendant, Robert Stahl, Tony Rockford, and Jake Ferguson were working on a bridge in Ogle County. According to Britz, Jr., Stahl was the job supervisor and had his own personal truck in Ogle County. Ferguson was the designated driver for the crew truck that was involved in the accident and was given the keys to the vehicle by Britz, Jr. Britz Jr., was aware that defendant's driver's license had been revoked since defendant was 16 years old. Nevertheless, Britz, Jr., had asked defendant to drive a work truck at least six times in the past. According to Britz, Jr., defendant had always refused. On cross-examination, Britz, Jr., clarified that he was out of the country on the date of the accident and did not return until May 20 or 21, 2013.

¶ 13 Stahl testified that he had worked for Britz Painting for 29 years. On May 2, 2013, Stahl was part of a work crew painting a bridge in Ogle County. After finishing work that day, Stahl returned to the motel where he was sharing a room with defendant and Ferguson. Stahl testified that defendant and Ferguson went out to eat but that he stayed in the motel. Stahl later went outside to smoke and encountered a sergeant from the Ogle County sheriff's department who asked him some questions. Approximately 45 minutes later, Ferguson appeared. According to Stahl, Ferguson had "fresh" blue paint on him and seemed "highly intoxicated and erratic." Ferguson kept hollering that defendant "left him." Stahl further testified that blue paint had been

stored in the back of the pickup truck that Ferguson had been driving earlier when he and defendant left for dinner. Stahl testified that "in the timeframe" of his visit to the hospital and jail to post bail for defendant, Ferguson cleaned up and "also got real sick in the motel." Stahl indicated that Ferguson had Stahl's "work keys and also keys to our gang box and stuff" in his possession. In response to defense counsel's question whether Ferguson had "anything with regards to the truck," Stahl testified that Ferguson had "keys." Stahl testified that defendant did not have any keys in his possession when he bailed him out of jail and that he (Stahl) was the only other person that had a key to the work truck. Stahl testified that the accident happened on a Thursday and the crew did not work on Friday. After getting a new truck from the downstate shop, the same crew returned to work on the bridge on Monday. According to Stahl, on Monday, May 6, 2013, Ferguson was "all sore" and could not do his job painting. Stahl testified that Ferguson left the employment of Britz Painting "about a week or so later" and "booked back to Kansas" in response to Stahl approaching him about "the keys, the paint."

¶ 14 Robert Britz, Sr., testified that he is the owner of Britz Painting and defendant's stepfather. Britz, Sr., testified that he was notified of the accident involving defendant on the night it occurred. After the crew returned to his shop in Divernon, Illinois, on May 3, 2013, Britz, Sr., met with Stahl, defendant, and Ferguson. Britz, Sr., testified that Ferguson was "pretty stoved up, said he had a broken wrist" and was "moving pretty slowly." Britz, Sr., sent the same crew back to Ogle County on Monday, May 6, 2013, to finish painting the bridge. Britz, Sr., became aware later on May 6 that Ferguson was not able to paint when "the guy running the job" called and told Britz, Sr., that Ferguson would be mixing the paint. Britz, Sr., testified that Ferguson worked on "a couple more small jobs, and then he had probably three part weeks" before abandoning his position and leaving town. On cross-examination, Britz, Sr., indicated

Ferguson was authorized to drive the company truck. Britz, Sr., acknowledged that, in making his insurance claim for the company truck, it came up that the vehicle was stolen.

¶ 15 The defense then called Ferris as a witness. Ferris testified that she had been a shareholder of her former employer, Oregon Ambulance Service. Ferris further testified that it was part of her job to send bills for ambulance services to the patient who was transported. On cross-examination by the state's attorney, Ferris noted that Oregon Ambulance Service was no longer in business and that she was not trying to collect on defendant's unpaid bill by testifying for the State.

¶ 16 Over the State's objection, the court allowed defense counsel to recall Britz, Sr. At the State's request, the court fully admonished Britz, Sr., that his testimony regarding a document entitled "Affidavit of Total Theft" might subject him to criminal prosecution. Britz, Sr., then exercised his 5th Amendment right not to answer questions about the affidavit. Also over the State's objection, paint-spattered clothing that Britz, Sr., identified as belonging to Ferguson was admitted into evidence. Britz, Sr., further identified a photograph of four men as Ferguson, defendant, Stahl, and "Mike" in front of "the government bridge up in northern Illinois." The photograph was admitted into evidence.

¶ 17 Lastly, the defense recalled Deputy Thiel. Deputy Thiel acknowledged that he recognized an audio recording of a radio dispatch transmission at the time of the accident on May 2, 2013, but had not been involved in any of the recorded conversations. Finding that Deputy Thiel could not authenticate the recording, the court denied its admission into evidence, but allowed the exhibit to be preserved for the record. After Deputy Thiel's testimony, the defense rested.

¶ 18 Following closing arguments, the trial court found defendant not guilty of the offense of failing to reduce speed. The court found defendant guilty of DUI and aggravated DUI, but entered conviction only on the latter charge. In addition, the court found defendant guilty of driving while his license was suspended. In support of its guilty findings, the court initially noted that when Whipple observed defendant crawl out of the vehicle, there were no other individuals in the vicinity. The court then cited Ferris's testimony that defendant "admitted to her that he had been the driver and admitted to her that he had been alone," although it acknowledged that these statements were not in Ferris's written report. The court also noted that Ferris "advised that [defendant] smelled of alcohol and had told her that he had that evening stopped and had approximately six beers." The court noted that defendant challenged Ferris's credibility "based upon an unpaid obligation to the Oregon ambulance company," but it did not believe that Ferris's testimony "would be biased in that regard." The court further cited Deputy Thiel's testimony that defendant admitted that he was the sole occupant of the vehicle and that defendant displayed several indicia of intoxication. The court acknowledged Stahl's testimony that the keys to the company truck were in Ferguson's possession when Ferguson returned to the motel room. However, the court pointed out that Stahl never related this fact to the police either at the hospital or when he went to post bail for defendant.

¶ 19 Thereafter, defendant filed a post-trial motion for acquittal or for a new trial. Following a hearing, the trial court denied defendant's post-trial motion. Defendant then orally moved for reconsideration of the trial court's decision, which was also denied. Following a sentencing hearing, the trial court sentenced defendant to a term of three years' imprisonment on the aggravated DUI conviction. The trial court also entered a conviction on the charge of driving while his license was suspended and sentenced defendant to 10 days' imprisonment to run

concurrently with the sentence for aggravated DUI. Following the denial of his motion to reconsider sentence, defendant filed a timely notice of appeal.

¶ 20 II. ANALYSIS

¶ 21 Defendant's sole argument on appeal is that the evidence presented by the State was insufficient to prove him guilty beyond a reasonable doubt of aggravated DUI. When a defendant challenges the sufficiency of the evidence used to convict him, it is not the function of the reviewing court to retry the defendant. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). Rather, 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.' " (Emphasis in original.) *Collins*, 106 Ill. 2d at 261 (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). Under this standard, all reasonable inferences from the evidence must be allowed in the State's favor. *People v. Baskerville*, 2012 IL 111056, ¶ 31. Moreover, this standard applies " 'regardless of whether the evidence is direct or circumstantial [citation], and regardless of whether the defendant receives a bench or jury trial [citation].' " *People v. Wheeler*, 226 Ill. 2d 92, 114 (2007) (quoting *People v. Cooper*, 194 Ill. 2d 419, 431 (2000)). The reviewing court should not substitute its judgment for that of the trier of fact, since the latter is responsible for weighing the evidence, assessing the credibility of the witnesses, resolving conflicts in the evidence, and drawing reasonable inferences and conclusions from the evidence. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). Nevertheless, a reviewing court must set aside a defendant's conviction if a careful review of the evidence reveals that it was so unreasonable, improbable, or unsatisfactory as to create a reasonable doubt as to the defendant's guilt. *People v. Evans*, 209 Ill. 2d 194, 209 (2004).

¶ 22 In this case, defendant was convicted of aggravated DUI pursuant to sections 501(a)(2) and 501(d)(2)(C) of the Illinois Vehicle Code (Code) (625 ILCS 5/11-501(a)(2), (d)(2)(C) (West 2012)). Under section 11-501(a)(2) of the Code, a person commits the offense of DUI if he was driving or in actual physical control of a motor vehicle while he was under the influence of alcohol. 625 ILCS 5/11-501(a)(2) (West 2012). A violation of section 11-501(a) of the Code becomes aggravated when an individual commits a fourth violation of that section. 625 ILCS 5/11-501(d)(2)(C) (West 2012); see *People v. Mischke*, 2014 IL App (2d) 130318, ¶ 17.

¶ 23 Defendant does not dispute that he was under the influence of alcohol on the night in question or that the instant offense constituted his fourth violation of section 11-501(a) of the Code. Instead, defendant maintains that "[t]he key issue is whether or not [he] was in actual physical control of the vehicle." We note, however, that the information charged defendant with *driving* while under the influence of alcohol. Nevertheless, as this court has recognized, if a person is shown to be operating a vehicle, *i.e.*, driving, that person is also, by the very nature of operating the vehicle, exerting actual physical control over the vehicle. *People v. Brown*, 175 Ill. App. 3d 676, 678 (1988) (noting that "driving would appear to require [the] defendant to be in actual physical control [of the vehicle]"); see also *People v. Niemiro*, 256 Ill. App. 3d 904, 908-09 (1993) (explaining the difference between "driving" and "exerting actual physical control" for purposes of section 11-501(a) of the Code). Accordingly, we analyze defendant's claim that he was not in actual physical control of the vehicle in this context, that is, whether the State established beyond a reasonable doubt that defendant was driving the vehicle in question.[2]

[2] Defendant's argument that he was not in actual physical control of the vehicle is undermined by the fact that he does not challenge his conviction of driving while his license was suspended. See *People v. Taiwo*, 2015 IL App (3d) 140105, ¶¶ 38, 44.

¶ 24 No one who testified at defendant's trial actually saw him driving the overturned vehicle. However, the observation of a defendant in the act of driving is not an indispensable prerequisite for a conviction. *People v. Lurz*, 379 Ill. App. 3d 958, 969 (2008). As noted above, the State can prove the element of an offense, including the driving element of a DUI, by circumstantial evidence alone. *Wheeler*, 226 Ill. 2d at 120; *Lurz*, 379 Ill. App. 3d at 969. "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.' " *People v. McPeak*, 399 Ill. App. 3d 799, 801 (2010) (quoting *People v. Stokes*, 95 Ill. App. 3d 62, 68 (1981)). In a case based on circumstantial evidence, the trier of fact need not be satisfied beyond a reasonable doubt as to each link in the chain of circumstances if all the evidence considered collectively satisfies the trier of fact beyond a reasonable doubt that the defendant is guilty. *People v. Slinkard*, 362 Ill. App. 3d 855, 857 (2006). Here, the facts and reasonable inferences from those facts establish that defendant was driving, and therefore in actual physical control of, the Dodge truck.

¶ 25 Although no one actually saw defendant drive the vehicle involved in the accident, defendant admitted to Ferris, the paramedic who treated him at the scene, that he was the driver. As defendant indicates in his brief, this alone was insufficient to establish that defendant was driving the vehicle. See *Lurz*, 379 Ill. App. 3d at 967-68. However, defendant's confession in conjunction with the other evidence supported such a conclusion. Specifically, Whipple observed defendant crawl out of the overturned vehicle. While defendant indicated that someone else may have been with him, Whipple did not see anyone else in the vehicle. Whipple walked down the roadway south 50 feet looking for anyone who might have been thrown from the vehicle, but found no one. In addition, Whipple noted that he did not see anyone walking along

Route 2 as he approached the accident scene and that the only other person in the area was another motorist who had stopped. Whipple's testimony that defendant was alone was corroborated by both Ferris and Deputy Thiel. Ferris testified that defendant told her not only that he was the driver of the vehicle, but that he was alone. Defendant told Deputy Thiel that he did not remember who was driving the truck prior to the accident, but that he was the sole occupant of the vehicle. Upon examination, Deputy Thiel did not see anyone else inside the vehicle and no one was found trapped under the vehicle. Further, Deputy Thiel testified that defendant told him at the hospital that he could not remember what happened, but that he was on his way home at the time of the accident and had become lost. This testimony implies that defendant was driving the truck. Indeed, Deputy Thiel also testified that a passerby identified defendant as the driver of the overturned vehicle. We find that defendant's presence alone at the scene of the accident, Whipple's observation of defendant crawling out of the vehicle, defendant's admission to the paramedic that he had been driving, defendant's repeated statements that he was alone or the sole occupant of the vehicle, and the absence of any other individuals (other than passersby) in the vicinity of the accident may be reasonably viewed as establishing beyond a reasonable doubt that defendant was the driver of the vehicle.

¶ 26 Defendant insists that he provided "a logical explanation, supported by physical and testimonial evidence," that Ferguson was the driver of the vehicle at the time of the accident. Defendant theorizes that Ferguson ran from the scene of the accident, went to the Oregon fire department for help for defendant, and ran back to the motel where he showed up covered in paint. In support of this argument, defendant cites the testimony of the Britzes and Stahl. However, the trier of fact was responsible for weighing the evidence, resolving conflicts in the evidence, and drawing reasonable inferences and conclusions from the evidence (*Sutherland*,

223 Ill. 2d at 242) and was entitled to discredit the Britzes testimony given their relationship to defendant (*People v. Garza*, 92 Ill. App. 3d 723, 729 (1981) (noting that the familial ties of a witness may bring his or her veracity under scrutiny)). Moreover, a rational trier of fact could have reasonably concluded that any testimony suggesting that Ferguson had been driving the truck at the time of the accident lacked consistency and believability.

¶ 27 For instance, Stahl's testimony that Ferguson was hollering that he had been "left" by defendant was inconsistent with the defense theory that Ferguson was driving at the time of the accident. Further, even though Stahl testified that Ferguson returned to the motel room with the truck keys shortly before Stahl left to visit defendant and bail him out of jail, there was no evidence that Stahl communicated to police that Ferguson was the designated driver of the truck or that he informed the police that Ferguson had returned to the motel with the keys for the truck in his possession. Furthermore, Stahl's account of the timeframe of Ferguson's disappearance differed substantially from that of Britz, Sr. Whereas Stahl testified that Ferguson "booked back to Kansas" about "a week or so" after the accident, Britz, Sr., testified that Ferguson worked on "a couple more small jobs, and then he had probably three part weeks" before disappearing. Britz, Sr.'s credibility was also diminished by his testimony that Ferguson suffered injuries in the accident, including a broken wrist that prevented him from paining on May 6, 2013, but he was able to paint on "a couple more small jobs, and then he had probably three weeks" before disappearing.

¶ 28 Defendant contends that "the paint is the key to finding reasonable doubt here." According to defendant, the fact that Ferguson showed up at the motel covered in blue paint corroborates his story that Ferguson was in the vehicle when it crashed. Although Stahl described the paint on Ferguson as "fresh," he never indicated that defendant and Ferguson

changed their clothes prior to going out to eat. Thus, an equally plausible explanation for the paint on Ferguson is that it was from the job earlier in the day. Defendant also insists that Stahl's testimony that Ferguson had the keys signifies that defendant did not have the keys. However, Stahl's testimony was problematic for the reasons stated above. Moreover, although evidence that defendant possessed the keys to the truck can establish that he was driving or in actual physical control of the vehicle, the absence of such facts does not require the opposite conclusion. *Slinkard*, 362 Ill. App. 3d at 859. Rather, in deciding whether defendant was the driver, courts must consider the specific facts presented in each case. *Slinkard*, 362 Ill. App. 3d at 859. Here, as set forth above, we have concluded that the State established this element beyond a reasonable doubt.

¶ 29 Defendant questions Ferris's credibility, noting that Ferris did not note in her report that he told her he was the driver and that he was alone. However, it was the trial court's responsibility to assess the credibility of the witnesses. *Sutherland*, 223 Ill. 2d at 242. Here, Ferris offered a reasonable explanation for this omission. She explained that her report was intended as a summary of the patient's condition and therefore would not have included every detail she learned about the accident. Moreover, Ferris explained that the accident involving defendant stood out in her memory as unique because defendant had paint on his clothes and the ambulance had to be cleaned to remove paint. Defendant also claims that Ferris's testimony is clouded by "the potential bias that she was a shareholder of the ambulance company that had been trying to collect on the bill from [defendant]." However, the trial court rejected this argument, stating that it did not believe that Ferris's testimony "would be biased in that regard." Defendant provides no compelling reason to disregard the trial court's finding.

¶ 30 Defendant also casts doubt on Whipple's testimony, noting that he could not say whether defendant was crawling out of the vehicle from the driver's or passenger's side. However, as defendant was the only individual seen crawling out of the vehicle and no other person was observed in the vicinity of the accident, a reasonable inference is that defendant was the driver of the vehicle.

¶ 31 In short, considering the circumstantial evidence presented in this case, and viewing it in the light most favorable to the prosecution, we are unable to conclude that no rational trier of fact could find beyond a reasonable doubt that defendant drove, and therefore exerted actual physical control over, the vehicle at issue.

¶ 32 III. CONCLUSION

¶ 33 For the reasons set forth above, we affirm the judgment of the circuit court of Lake County. As part of our judgment, we grant the State's request that defendant be assessed $50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2012); see also *People v. Nicholls*, 71 Ill. 2d 166, 179 (1978).

¶ 34 Affirmed.