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2024 IL App (3d) 220389-U

Order filed January 23, 2024

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2024

THE PEOPLE OF THE STATE OF)	Appeal from the Circuit Court
ILLINOIS,)	of the 12th Judicial Circuit,
)	Will County, Illinois,
Plaintiff-Appellee,)	
)	Appeal No. 3-22-0389
v.)	Circuit No. 17-CF-1233
)	
ANTHONY ALEXANDER,)	Honorable
)	Kenneth L. Zelazo,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE HETTEL delivered the judgment of the court.
Presiding Justice McDade and Justice Davenport concurred in the judgment.

ORDER

¶ 1 *Held:* The State proved defendant guilty of aggravated fleeing or attempting to elude a peace officer beyond a reasonable doubt.

¶ 2 Defendant, Anthony Alexander, appeals from his conviction for aggravated fleeing or attempting to elude a peace officer. He contends the State did not prove beyond a reasonable doubt that he committed the offense. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant by indictment with three counts of aggravated fleeing or attempting to elude a peace officer (625 ILCS 5/11-204.1(a)(4), (b) (West 2016)). The matter proceeded to a bench trial.

¶ 5 Joliet Police Officers Adam Stapleton and Rick Scallate testified that on June 17, 2017, they received a briefing prior to the start of their shift regarding two stolen all-terrain vehicles (ATVs). Stapleton reported to the location of the missing ATVs. While speaking with the concerned individuals, Stapleton observed two ATVs driving on the roadway and notified dispatch of their location. Soon after, Stapleton heard Scallate report seeing the ATVs on the roadway over dispatch. Several minutes later, Stapleton observed defendant driving an ATV the wrong way down First Avenue, a one-way street. First Avenue had “one-way street arrows and Do Not Enter signs at the opposite end,” the direction defendant came from. At one point, defendant drove the ATV approximately five feet from Stapleton when he attempted to turn the ATV and caused an accident. Defendant fled on foot. Stapleton pursued defendant and ordered him to “stop” three times while defendant continued to flee. Stapleton informed dispatch of defendant’s direction of travel until Stapleton lost sight of him.

¶ 6 Scallate testified that following the briefing regarding the stolen ATVs, he patrolled in a marked squad car with red and blue emergency lights. Scallate’s squad car did not have a video recording device. Scallate heard Stapleton report over dispatch the general location of two ATVs. While driving on Washington Street, Scallate observed defendant driving an ATV, which was “[s]topped in the middle of traffic” at a red light approaching the intersection of Washington Street and Richards Street. First, Scallate activated his emergency lights. Scallate then used his sirens to clear the traffic between defendant and Scallate. When the traffic parted, Scallate approached the ATVs with his lights and sirens on. Defendant and the other individual “turned

around and looked at [Scallate,] *** saw [his] lights on[,] *** looked back forward” and turned left at the red light. Scallate did not observe any green arrows allowing a left turn. Scallate saw defendant travel from Richards Street and proceed westbound on First Avenue, a one-way street. Defendant turned around on First Avenue, began heading eastbound, and passed a sign at First Avenue and Richards Street indicating that he was traveling in the wrong direction. Defendant continued until Scallate lost sight of the ATV. Soon after Stapleton updated dispatch of defendant’s direction of travel, Scallate apprehended defendant.

¶ 7 On cross-examination, defense counsel introduced Scallate’s dispatch audio recording from the incident into evidence. In the portion entered, Scallate informed dispatch that he was “behind those two [ATVs] *** on Richards approaching First.” After dispatch confirmed Scallate’s location, Scallate stated “westbound First, initiating a traffic stop.” Scallate then indicated that the ATVs were “going back eastbound First.” Scallate stated that he usually informed dispatch before initiating a traffic stop by turning his lights on. Scallate explained that in some situations, he informed dispatch after he had initiated a traffic stop. Scallate admitted that telling dispatch before initiating a traffic stop would be the safer course of action. Scallate agreed that if he “had” initiated the traffic stop at the same time he informed dispatch, that would have been after the first traffic violation. Scallate also agreed that he did not hear sirens on the audio recording. Scallate clarified that he initially only used his lights. On redirect examination, Scallate stated that seconds after he initiated the stop, he informed dispatch of his location and pursued defendant as he fled. Scallate described the events as happening quickly.

¶ 8 In closing, defense counsel argued that the State failed to prove defendant guilty because the dispatch recording showed that Scallate initiated the traffic stop after defendant disobeyed the red traffic light by turning left. Specifically, defendant relied on the words Scallate used

while communicating with dispatch, in that he said, “initiating a traffic stop.” Counsel reasoned that the recording proved the moment Scallate turned on his lights, which would have been after the disobeyed traffic signal, and the court should “disbelieve” Scallate’s testimony that he turned on his lights before the disobeyed traffic signal. Thus, counsel concluded that the State failed to prove defendant guilty of felony aggravated fleeing or attempting to elude a peace officer where it was unable to show that defendant disobeyed two traffic signals.

¶ 9 The court found defendant guilty of aggravated fleeing or attempting to elude a peace officer. The court made the explicit factual finding that defendant disobeyed two official traffic signals: (1) the stop light when defendant turned left, and (2) the “Do Not Enter” sign indicating that First Avenue was a westbound one-way street on which defendant traveled eastbound. Additionally, the court addressed defendant’s assertion that Scallate was incredible in light of the dispatch recording, where he informed dispatch that he initiated a stop. The court stated that it “disagree[d] with the interpretation defense *** present[ed].” The court found that defendant’s act of turning left on a red light was circumstantial evidence of “defendant’s awareness of the illegality of having an ATV on the public roadway” and Scallate, “upon observing the defendant *** a chase ensued.” The court concluded that the State proved defendant had disobeyed two official traffic signals while being pursued by Scallate.

¶ 10 Following defendant’s motion for a new trial, the court again addressed the credibility of Scallate. The court stated that counsel was asking it “to disbelieve the testimony of [Scallate] that prior to stating the word initiate on audio, he did not take measures or steps to pull [defendant] over[.]” The court clarified its factual findings that when Scallate said he was “initiating a traffic stop,” it did not “mean that [Scallate] ha[d] not already turned on his siren and/or lights and/or made efforts to pull the vehicle over.” The court continued, “just because he verbalized as calling

in on a radio that he is initiating the stop does not mean he did not take measures to show signals to pull [defendant] over prior to that.” The court denied the motion, and defendant appealed.

¶ 11

II. ANALYSIS

¶ 12

On appeal, defendant argues the evidence was insufficient to prove him guilty beyond a reasonable doubt of felony aggravated fleeing or attempting to elude a peace officer, in that the State failed to prove defendant disregarded *two* traffic control signs and asks this court to reduce his conviction to a misdemeanor. Viewing the evidence in the light most favorable to the State, we find a rational trier of fact could have found defendant guilty of aggravated fleeing or attempting to elude a peace officer.

¶ 13

When a defendant makes a challenge to the sufficiency of the evidence, “ ‘the relevant question 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.) *People v. Collins*, 106 Ill. 2d 237, 261 (1985) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). “When presented with a challenge to the sufficiency of the evidence, it is not the function of this court to retry the defendant.” *Id.* “[T]he reviewing court must allow all reasonable inferences from the record in favor of the prosecution.” *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). “ ‘ “[T]he trier of fact is not required to disregard inferences which flow normally from the evidence before it, nor need it search out all possible explanations consistent with innocence and raise them to a level of reasonable doubt.” ’ ” *People v. Newton*, 2018 IL 122958, ¶ 24 (quoting *People v. Hardman*, 2017 IL 121453, ¶ 37, quoting *People v. Jackson*, 232 Ill. 2d 246, 281 (2009)). The trier of fact must also “resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences from the facts.” *People v. Gray*, 2017 IL 120958, ¶ 35. A reviewing court will not

replace the trier of fact's judgment with its own regarding the weight of the evidence or witnesses' credibility. *Id.* "A conviction will be reversed only where the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant's guilt." *People v. Belknap*, 2014 IL 117094, ¶ 67.

¶ 14 To prove defendant guilty of felony aggravated fleeing or attempting to elude a peace officer, the State needed to show that defendant drove a motor vehicle after having been "given a visual or audible signal by a peace officer" directing defendant to bring his vehicle to a stop, and in his willful attempt to elude, defendant disobeyed "2 or more official traffic control devices." 625 ILCS 5/11-204.1(a)(4) (West 2016).

¶ 15 In the present case, defendant narrowly takes issue with the dispatch recording and asserts that it provided reasonable doubt regarding defendant disobeying only the first traffic signal. Specifically, defendant contends that the recording contradicts Scallate's testimony that he initiated a traffic stop by turning on his lights *before* defendant disobeyed the first traffic signal. Importantly, the court made specific findings regarding Scallate's testimony and the audio recording. First, the court determined that Scallate's call to dispatch did not show that he simultaneously activated his emergency lights to initiate a traffic stop. In other words, the recording did not show that Scallate failed to give defendant signals to stop prior to that point. Thus, the court found that Scallate informed dispatch that he was "initiating" the traffic stop after he activated his emergency lights and sirens, signaling defendant to stop. Scallate then observed defendant disobey a red traffic light by turning left. Second, the court found Scallate's testimony credible and corroborated by the remaining circumstantial evidence, which showed defendant's consciousness of guilt, in that after Scallate's lights were activated, defendant turned left at the red light and a chase ensued. The court made specific credibility determinations and resolved the

factual questions the evidence raised. See *Gray*, 2017 IL 120958, ¶ 35. Moreover, we cannot say that this decision was so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of defendant's guilt. See *id.* Therefore, we find the State presented sufficient evidence for felony aggravated fleeing or attempting to elude a peace officer beyond a reasonable doubt.

¶ 16

III. CONCLUSION

¶ 17

The judgment of the circuit court of Will County is affirmed.

¶ 18

Affirmed.