

2011 IL App (2d) 110145-U  
No. 2-11-0145  
Order filed June 8, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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|-------------------------|---|-------------------------------|
| THE PEOPLE OF THE STATE | ) | Appeal from the Circuit Court |
| OF ILLINOIS,            | ) | of Lake County.               |
|                         | ) |                               |
| Plaintiff-Appellee,     | ) |                               |
|                         | ) |                               |
| v.                      | ) | No. 09-CM-8009                |
|                         | ) |                               |
| MICHAEL IVY,            | ) | Honorable                     |
|                         | ) | Joseph R. Waldeck,            |
| Defendant-Appellant.    | ) | Judge, Presiding.             |

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JUSTICE BURKE delivered the judgment of the court.  
Presiding Justice Jorgensen and Justice Hutchinson concurred in the judgment.

**ORDER**

*Held:* We conclude that, viewing the evidence in the light most favorable to the State, any rational trier of fact could have found defendant guilty of resisting arrest beyond a reasonable doubt pursuant to section 31-1(a) of the Criminal Code of 1961 (Code) (720 ILCS 5/31-1(a) (West 2008)); affirmed.

¶ 1 Following a jury trial, defendant, Michael Ivy, was found guilty of two counts of resisting arrest for pulling away from peace officers as they attempted to handcuff him and for refusing verbal commands to walk to the squad car, and defendant was sentenced to a one-year term of conditional discharge, 100 hours of public service, and a \$250 fine. Defendant appeals his conviction solely as

to the latter count, contending that the State failed to prove beyond a reasonable doubt that he knowingly resisted arrest by refusing to follow the verbal commands to walk to the squad car because his medical disability delayed his compliance. We affirm.

¶ 2

#### FACTS

¶ 3 Defendant was charged by information with resisting a peace officer in violation of section 31-1(a) of the Code (720 ILCS 5/31-1(a) (West 2008)). The information alleged that on May 4, 2009, defendant knowingly obstructed the performance of Waukegan police officer Martin Van Anrooy of an authorized act within his official capacity, being the arrest of defendant, knowing Van Anrooy to be a peace officer engaged in the execution of his official duties, by pulling away from Van Anrooy while being placed in handcuffs. The State filed two additional counts of resisting a peace officer, alleging that during the same incident on May 4, 2009, defendant obstructed his arrest by refusing the verbal commands to walk to a squad car and by refusing a verbal command to drop the pen he was holding.

¶ 4 The case proceeded to a jury trial on August 2, 2010. Van Anrooy testified that he was on patrol around 10 a.m. on May 4, 2009, when he was dispatched to a possible dispute at 25 North County Street, Waukegan, Illinois, across from the Lake County Circuit Court. Van Anrooy was flagged down by a man holding a child, who told him that defendant had threatened to shoot him. The man pointed down the street about 200 feet, where Van Anrooy saw defendant standing by a car. Van Anrooy then approached defendant “to get his side of the story.”

¶ 5 According to Van Anrooy, when he asked defendant to explain what happened, defendant told him that he could tell people anything he wanted, and people could perceive it how they wished. Van Anrooy testified that defendant spoke in a loud, angry voice, and his fists were clenched. Van

Anrooy tried to reason with defendant but was unable to calm him down. At this point, Van Anrooy informed defendant that he was under arrest.

¶ 6 Van Anrooy testified that, upon being told he was under arrest, defendant stepped back and said he “wasn’t going anywhere” with the officer. Van Anrooy attempted to grab defendant’s arm to turn him around, but defendant pulled it back towards his body and told Van Anrooy to take his hands off of him. Defendant tensed his arm and pulled it away from Van Anrooy. Van Anrooy then grabbed defendant again, turned him around, and attempted to place defendant up against defendant’s car. Defendant then placed one hand against the car and was pushing up against it, but he pulled away from Van Anrooy as Van Anrooy tried to handcuff him. As Van Anrooy placed one handcuff on defendant, two other police officers arrived on the scene to assist. Van Anrooy had to repeatedly inform defendant that he was under arrest and to stop resisting arrest, but according to Van Anrooy, defendant continued to resist.

¶ 7 When the officers asked defendant to walk to the squad car, which was located about five feet away, Van Anrooy stated that defendant stiffened his body and would not walk. He and Officer Rolando Villafuerte practically had to carry defendant under his arms to the squad car after defendant refused their commands to walk to it. Defendant continued to ignore the officers’ commands by refusing to drop items in his hand. Defendant also refused to get into the squad car.

¶ 8 Van Anrooy admitted on cross-examination that he never told defendant why he was placed under arrest. He estimated that the time between when he told defendant he was under arrest to the time defendant sat in the squad car was “probably a good minute, if not more.” Van Anrooy recalled that Villafuerte mentioned something about how defendant said he had a medical condition, although he did not hear that from defendant himself.

¶ 9 Villafuerte testified that he saw defendant struggle with Van Anrooy, that defendant would not allow them to cuff him, and that he refused to walk to the squad car. Villafuerte stated that, when he and Van Anrooy were escorting defendant to the squad car, defendant was “definitely walking slowly” and it did not seem like he wanted to walk at all. He described defendant as being “kind of just stiff and tense so we had to like pull him, lean him in that direction.” Villafuerte opined that defendant did not seem to have trouble walking, just that he was really tense.

¶ 10 Once at the squad car, Van Anrooy saw that defendant had keys and a pen in his hand. When he ordered defendant to drop the items, defendant refused, stating “I’m not giving you guys anything,” so Van Anrooy had to pry open defendant’s hand. Finally, after being told several times to sit in the squad car, defendant complied. Villafuerte testified that defendant made some comments as he walked to the squad car, and he admitted that, when they got to the squad car and he told defendant to get in, defendant said “he had some kind of issue with his leg, a problem with his leg.” Villafuerte told defendant, “okay, I understand, but it doesn’t matter; you still have to get in the back of the car.”

¶ 11 Defendant testified that he suffers from diabetic neuropathy, which causes numbness and tingling in his legs and feet. He cannot feel the ground when he walks. He also suffers from an enlarged heart, congestive heart failure, and an irregular heart beat.

¶ 12 Defendant testified that the man with the child who called the police was his wife’s ex-husband. Defendant and his wife had been summoned to the courthouse that day in a custody dispute with the ex-husband, and she had to hand over custody of the child to the ex-husband after a custody hearing. Defendant was not present at the hearing. He stayed outside with the child. Defendant admitted that he told the ex-husband that “he better watch his back” because the man had

been “phone harassing” defendant for five months. Defendant stated that Van Anrooy seemed angry when he approached and asked what defendant had said to the ex-husband. Defendant admitted to Van Anrooy that he had told the ex-husband to watch his back. Van Anrooy asked defendant what that meant, and defendant replied, “well, that could mean a lot of different things. But when someone calls you” and says “they’re going to kill you and your family, you can’t interpret that any other way.” Defendant asked why Van Anrooy was asking him that question and not the ex-husband. Defendant stated Van Anrooy became very angry and asked defendant what that had to do with anything that happened today. Defendant responded, “well, it just seems to me that I have—all I did was tell him to watch his back” and that it should not be anything that would be injurious. Van Anrooy told defendant that he was ignorant, to which defendant replied, “I got two masters degrees. How many you got?” Defendant testified that, at that point, Van Anrooy told him he was under arrest.

¶ 13 Defendant asked why he was being arrested, but Van Anrooy just turned him around and told him he was not responding properly. Defendant stated that, as he started to tell Van Anrooy that he had bad legs, Van Anrooy whipped him around and started to cuff him. Defendant testified he did not struggle with Van Anrooy and that Van Anrooy was the one who had trouble putting the cuffs on him. Defendant admitted he might have raised his voice to a “loud and shrill” tone, but he followed all of the commands.

¶ 14 Defendant further testified that Van Anrooy and Villafuerte sort of dragged him to the squad car while defendant attempted to tell them that he had bad legs. Defendant denied that he stiffened his legs but stated that was just how they were. Defendant explained that he could walk, but he could not keep up with the officers because they were going faster than he could. Defendant added

that, if he does not look where he is walking, he can stumble because of the lack of feeling in his feet. Although he tried to tell the officers about his legs as they were dragging him, defendant stated that it was “like they didn’t hear anything I was saying to them.”

¶ 15 Although he recalled having his keys in his hand, defendant testified that he did not remember anything about a pen. He did not recall the officers prying anything out of his hands. Defendant denied being angry when Van Anrooy came up to him but thought that his comment about the masters degrees seemed to trigger something in Van Anrooy.

¶ 16 On cross-examination, defendant clarified that his legs do not cause him pain and that he is able to walk unassisted without a cane. The numbness in his legs prevents him from feeling the ground. Defendant testified that his condition does not affect his hearing. Defendant admitted that he might have been yelling when he asked Van Anrooy why he was being arrested but that he followed all of the commands given to him. Defendant denied being angry when Van Anrooy approached him, as he had no reason to be. When questioned about being dragged to the squad car, defendant testified, “They wanted to get to the police car apparently a lot faster than I did. I wasn’t stopping them, trying to stop them from getting me to the police car. My legs don’t move well.” Defendant added that the officers “weren’t listening to what I was telling them that my legs don’t work.”

¶ 17 Following closing arguments, the jury found defendant guilty of resisting arrest by pulling away while Van Anrooy was trying to cuff him and by refusing to walk to the squad car as directed but not guilty of resisting arrest by refusing to drop the pen he was holding. Thereafter, the trial court sentenced defendant to 364 days of conditional discharge, a \$250 fine, and 100 hours of public service. Defendant timely appeals.

¶ 18

ANALYSIS

¶ 19 On appeal, defendant contends that the evidence was insufficient to prove him guilty beyond a reasonable doubt of resisting a peace officer. When there is a reasonable doubt challenge, we determine 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 offense beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). The reviewing court will not retry the defendant. *People v. Jimerson*, 127 Ill. 2d 12, 43 (1989). Determinations of witness credibility, the weight to be given testimony, and the reasonable inferences to be drawn from the evidence are responsibilities of the trier of fact, not the reviewing court. *People v. McCoy*, 378 Ill. App. 3d 954, 962 (2008). A conviction will not be set aside on grounds of insufficient evidence unless the proof is so unreasonable, improbable, or unsatisfactory as to leave a reasonable doubt as to the defendant's guilt. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 225 (2009).

¶ 20 The statute under which defendant was charged is section 31-1(a) of the Code, which provides: "A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer \*\*\* of any authorized act within his official capacity commits a Class A misdemeanor." 720 ILCS 5/31-1(a) (West 2010). The statute prohibits a person from engaging in conduct that interposes an obstacle that impedes or hinders the officer in the performance of his or her authorized duties. *People v. Baskerville*, 2012 IL 111056, ¶ 23. The inquiry is for the trier of fact, based upon the facts and circumstances of each case. *Id.*

¶ 21 Defendant maintains that he did not knowingly resist or obstruct the peace officers from performing their official duties because his medical disability prevented him from walking fast enough to comply with the officers' commands. Although defendant testified that he has trouble

physically walking, the testimony of the officers directly conflicts with that of defendant. They described defendant as stiffening up and not walking after they informed him that he was under arrest and commanded him to walk to the squad car, which necessitated the officers to almost carry defendant to the squad car. The officers also testified that defendant did not have any trouble physically walking, and defendant conceded at trial that his legs do not cause him pain and that he is able to walk without any assistance. It is the trier of fact's responsibility to determine the witnesses' credibility and the weight given to their testimony, to resolve conflicts in the evidence, and to draw reasonable inferences from the evidence; we will not substitute our judgment for that of the trier of fact on these matters. *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001). Ample evidence was presented at trial to show physical resistance by defendant, and it was certainly within the province of the trier of fact to determine that defendant's actions impeded the officers in the performance of their authorized duty.

¶ 22 Defendant attempts to analogize this case to *People v. Kotlinski*, 2011 IL App (2d) 101251, in which the defendant's conviction for resisting arrest was reversed because the State failed to present evidence that the defendant knowingly obstructed a police officer, who was administering sobriety tests to the defendant's wife when the defendant was exiting the car. We found that any inference that the defendant knew that his act of getting out of the car was practically certain to result in the interruption of the officer's investigation had to be pyramided on another inference, "that [the defendant] knew that [the officer] was still administering a field sobriety test to defendant's wife." *Id.*, ¶ 57. We held that the only reasonable inference that the jury could draw was that the defendant stepped out of the car because he could not see what was happening with his wife, which meant he did not know what the officer was doing. *Id.* Here, unlike in *Kotlinski*, it was not unreasonable for

the jury to conclude that defendant knowingly resisted the police officers because, as noted above, the officers informed defendant that he was under arrest and that he was resisting arrest when he stiffened and refused to walk to the squad car. Furthermore, we fail to see how defendant can argue that he was not aware that he was resisting arrest since he does not challenge his conviction of resisting a police officer while being placed in handcuffs.

¶ 23

#### CONCLUSION

¶ 24 We conclude that, viewing all of the evidence in the light most favorable to the State, any rational trier of fact could have found that defendant violated section 31-1(a). Accordingly, defendant's convictions are affirmed.

¶ 25 Affirmed.