

NOTICE  
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (4th) 110904-U

Filed 6/28/12

NO. 4-11-0904

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Macon County
BRIAN T. ISAACS,	)	No. 11TR8266
Defendant-Appellant.	)	
	)	Honorable
	)	Scott B. Diamond,
	)	Judge Presiding.

JUSTICE COOK delivered the judgment of the court.  
Justice Appleton concurred in the judgment.  
Presiding Justice Turner specially concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant, Brian T. Isaacs, was convicted of the offense of failing to reduce speed to avoid an accident. Defendant appeals, *pro se*. We reverse.

¶ 2 I. BACKGROUND,

¶ 3 Kayla Thompson testified she was driving south on Fairview Road, a four-lane road divided by a center line. Thompson was in the left lane as she approached Sunset Avenue, a road to the left. Two cars were ahead of her. The first car "turned on his turn signal and slammed on his [brakes]." The second car "slammed on his [brakes] and then [Thompson] slammed on [hers]." Defendant was following Thompson in another vehicle. Thompson testified she "got rear-ended and it bumped me into the other car." Officer George Kestner testified he was dispatched to the scene. He observed severe front-end damage to defendant's

vehicle, which had to be towed from the scene. Thompson's vehicle had moderate damage to the rear and very minor damage to the front bumper. The car ahead of Thompson had minor damage to the rear, scuff marks. Officer Kestner issued a citation for failure to reduce speed involving an accident to defendant. 625 ILCS 5/11-601(a) (West 2010). Section 11-601(a) provides that "[s]peed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care."

¶ 4 Defendant did not testify. Defendant, *pro se*, in closing argument stated, "I don't know how I could have avoided this accident." The court responded, "Okay. Well, I'll tell you how you could have avoided this accident. Usually when there's a [rear]-end collision, and I'm not saying in every case, but in most cases, the person is following too close. You should have left more distance between him. When you rear[-]end somebody that's an indication that you did not leave enough space between your car and their [car]. So, based on that I am going to find you guilty." The court imposed a \$100 fine plus court costs. Defendant appeals *pro se*.

¶ 5 II. ANALYSIS

¶ 6 During his closing argument in the trial court, defendant attempted to explain what had happened. The trial court told defendant he could not testify, but could argue based on the evidence. In his brief to this court, defendant included a photograph and map which are not part of the record. We will not consider matters outside the record. *People v. Carey*, 386 Ill. App. 3d 254, 270, 898 N.E.2d 1127, 1142 (2008).

¶ 7 In assessing the sufficiency of the evidence to sustain a defendant's conviction, a reviewing court must determine whether, after reviewing 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, 708 N.E.2d 365, 369 (1999); *People v. Sturgess*, 364 Ill. App. 3d 107, 115, 845 N.E.2d 741, 748 (2006). We may not substitute our judgment for that of the trial court and will not reverse a conviction unless the evidence is so improbable or unsatisfactory as to create a reasonable doubt of the defendant's guilt. *People v. Lundy*, 334 Ill. App. 3d 819, 825, 779 N.E.2d 404, 410 (2002).

¶ 8 This court has rejected the argument that the fact of a collision standing alone is sufficient evidence of a failure to reduce speed to avoid an accident. "Based on the logic of that argument, anyone involved in an accident could properly be convicted for failure to reduce speed to avoid an accident." *People v. Brant*, 82 Ill. App. 3d 847, 852, 403 N.E.2d 282, 286 (1980); *People v. Sampson*, 130 Ill. App. 3d 438, 444, 473 N.E.2d 1002, 1007 (1985) (State did not prove essential elements of the offense). Of course, there usually is a reason why an accident occurs. In *Brant*, the stipulated facts were that defendant was intoxicated and that he lost control of his car. That evidence explained why the accident occurred but was not sufficient proof that the defendant was driving too fast for conditions. *Brant*, 82 Ill. App. 3d at 852-53, 403 N.E.2d at 286. The same is true in this case. The undisputed evidence is that the first car suddenly turned on his turn signal and "slammed on his brakes," causing the second and third cars to slam on their brakes. In light of the other facts in this case, evidence that a collision occurred, without more, cannot support an inference of carelessness sufficient to satisfy the requirements of proof of this charge.

¶ 9 The State argues that the two cars following the turning vehicle were able to take effective evasive measures, suggesting that defendant could have avoided the collision if he had

maintained proper lookout and reduced speed. However, the first two vehicles were able to observe the turning vehicle's turn signal, and realized this was a stopping situation, not a slowing-down situation. The State cites *Chevrie v. Gruesen*, 208 Ill. App. 3d 881, 886, 567 N.E.2d 629, 632-33 (1991), to support its argument, but in *Chevrie*, a vehicle crossed four lanes of traffic and a median and collided with two other cars before the impact with defendant's car. The defendant in *Chevrie* had the opportunity to see the vehicle that initially caused the accident; the defendant here did not. The State also argues that evidence that defendant's car was severely damaged while the other cars sustained moderate to minor damage was some, but not necessarily conclusive, evidence it was being driven at a high rate of speed. Defendant's car may not have been driven slowly, but the question is whether he had a sufficient opportunity to reduce speed so that the accident could have been avoided.

¶ 10

### III. CONCLUSION

¶ 11 For the foregoing reasons, we reverse the trial court's judgment.

¶ 12 Reversed.

¶ 13 PRESIDING JUSTICE TURNER, specially concurring:

¶ 14 I concur with the majority order reversing the trial court's judgment. I write separately to point out the State did not charge defendant for following too closely in violation of section 11-710(a) of the Illinois Vehicle Code (625 ILCS 5/11-710(a) (West 2010)), yet this is precisely the offense the trial court described in finding defendant guilty.