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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 Boone County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 11-CF-72
	)	
MEDREN ROMAN,	)	Honorable
	)	Robert C. Tobin,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE HUDSON delivered the judgment of the court.  
Presiding Justice Burke and Justice Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* State proved defendant guilty beyond a reasonable doubt of aggravated driving under the influence where, although defendant was not observed in the act of driving, there was sufficient circumstantial evidence to establish that defendant had driven the vehicle involved in the offense.

¶ 2 Following a bench trial in the circuit court of Boone County, defendant, Medren Roman, was found guilty of aggravated driving under the influence (aggravated DUI) (625 ILCS 5/11-501(a)(2), (d)(1)(H) (West 2010)). The trial court sentenced defendant to a term of two years' imprisonment. On appeal, defendant argues that the State failed to establish beyond a reasonable doubt that he drove any vehicle while under the influence of alcohol. We affirm.

¶ 3

## I. BACKGROUND

¶ 4 On March 11, 2011, defendant was charged by indictment with two counts of aggravated DUI (625 ILCS 5/11-501(a)(1), (a)(2), (d)(1)(H) (West 2010)). The indictment alleged that on January 25, 2011, defendant drove a vehicle at a time when he did not possess a valid driver's license or permit, and he was either under the influence of alcohol in violation of section 11-501(a)(2) of the Illinois Vehicle Code (Code) (625 ILCS 5/11-501(a)(2) (West 2010)) (Count I) or had an alcohol concentration in his breath of 0.08 or higher in violation of section 11-501(a)(1) of the Code (625 ILCS 5/11-501(a)(1) (West 2010)) (Count II). Defendant waived his right to a jury, and the cause proceeded to a bench trial on August 14, 2012.

¶ 5 Edward Battaglia testified that he is an employee of the Illinois Tollway. Battaglia's duties include driving a Highway Emergency Lane Patrol (HELP) truck to assist motorists on Interstate 90 (I-90). On January 25, 2011, at about 7:30 p.m., Battaglia was driving a HELP truck on I-90 when he encountered a disabled van on the shoulder near milepost 29. Battaglia stopped his truck behind the van and approached to see if his assistance was needed. According to Battaglia, the back of the van was damaged and the left front tire was flat.

¶ 6 Battaglia testified that when he arrived, an individual, later identified as defendant, was behind the van. Defendant was attempting to remove the spare tire from the van's undercarriage, which required the use of a special tool. However, his efforts were hampered by the damage to the back of the van. Upon approaching, Battaglia noted that defendant appeared "glassy-eyed" and had a strong odor of alcohol. Suspecting that defendant was under the influence of alcohol, Battaglia returned to his truck, contacted dispatch, and requested the assistance of law enforcement. Battaglia testified that he did not see anyone other than defendant in the vicinity of the van and that defendant did not indicate that anyone else was with him. He acknowledged,

however, that he never saw defendant drive the van and he never saw defendant inside the van.

¶ 7 Illinois State Police Trooper Andrew Petrak was the first law-enforcement officer to respond to Battaglia's call. Petrak stated that it was clear outside, and although there was snow on the ground, the roads were free of precipitation. When Petrak arrived, only defendant and Battaglia were present. The van had damage to its rear and left sides, and its left front tire was flat. As Petrak approached, he noticed that defendant had trouble standing, his eyes were bloodshot and glassy, his speech was slurred, and he had an odor of alcohol coming from his person. Petrak asked defendant for identification, and he produced a Mexican Consulate identification card. Another trooper, Patrick Burns, arrived sometime after Petrak and administered field-sobriety tests to defendant. Based on his observations of defendant's person and defendant's performance on the field-sobriety tests, Petrak concluded that defendant was under the influence of alcohol.

¶ 8 Petrak testified that an inventory search of the van yielded a set of keys and a cell phone. Petrak could not recall where in the vehicle the keys were located or whether the vehicle was running. At some point during the encounter, Petrak asked defendant what had occurred. Defendant responded that he had been in a crash, but did not know what had happened. Defendant said that he needed a jack and that the person who had been with him had left to retrieve one. Petrak could not recall whether defendant described the other individual as his brother or his cousin. Defendant told Petrak that someone had picked up the other individual and they had gone to Elgin to retrieve a jack, but defendant was not sure where. Petrak estimated that Elgin was "at least 25 miles" from the scene. Petrak testified that he was not aware how long the van had been on the side of the road prior to his arrival, but noted that he was on the scene for at least 40 minutes. During that time, no one showed up with a jack.

¶ 9 On cross-examination, Petrak acknowledged that he never saw defendant driving the van and he never saw defendant in the driver's seat of the van. Petrak also acknowledged that the keys to the van were not found on defendant's person.

¶ 10 Illinois State Police Trooper Patrick Burns testified that he arrived on the scene to find defendant, Battaglia, and Petrak. Burns noted that it was cold outside with snow on the ground. Upon his arrival, Burns observed a van with a "shredded" left front tire, a broken window on the right rear side, and damage to the left rear side. When Burns asked defendant what happened, he responded that he "just had a flat tire." Burns also asked defendant how the van became damaged, but defendant responded that he did not know.

¶ 11 When Burns asked defendant for a driver's license, he produced a Mexican identification card. Defendant told Burns that he resided in Elgin, but the identification card listed an address in Belvidere. Burns later ran defendant's information and discovered that his Illinois driving privileges had been revoked. Burns also checked the registration of the van, and discovered that it was registered to Yessenia Flores, who had an address in Elgin. Burns estimated that the van was located "[r]oughly 45 miles" from Elgin. Burns asked defendant if he had been driving the van, and defendant stated that he had not. Defendant told Burns that his brother had been driving, but had left to get a jack. Burns testified that during a search of the van, he found a set of keys in the center console and a cell phone. Defendant later admitted that the cell phone belonged to him. Burns did not recall finding a jack in the car, but explained that he would not have noted one because he considered it to be standard vehicle equipment.

¶ 12 Burns detected a strong odor of alcohol coming from defendant. He also noted that defendant's eyes were bloodshot, his speech was slurred, and he had difficulty standing without leaning against the van to maintain his balance. Burns asked defendant if he had been drinking,

and defendant indicated that he had two to three beers at his uncle's house. Burns gave defendant several field-sobriety tests, which defendant failed. Even when defendant was not attempting sobriety tests, he appeared to be, by Burns' estimation, highly intoxicated. Burns arrested defendant and took him to jail. Burns did not find any keys on defendant at the time of the arrest. Burns estimated that he spent "a minimum" of 20 minutes on the scene. No one other than defendant, Battaglia, and the troopers were present during that time.

¶ 13 On cross-examination, Burns admitted that he did not know who was inside the van at the time it pulled over. He also admitted that he never saw defendant inside the van, he never saw defendant driving the van, and defendant never told him that he had been driving the van. Further, Burns acknowledged that defendant is not the registered owner of the van and the keys to the vehicle were not on his person.

¶ 14 The parties stipulated that defendant took a breathalyzer test after being arrested, which indicated his blood-alcohol concentration was 0.177. The parties also stipulated that defendant's driver's license had been revoked prior to the night of the encounter. Yessenia Flores testified that she was defendant's girlfriend in 2011, and was his wife at the time of trial. Following Flores' testimony, the State rested. Defendant's motion for a directed verdict was denied. Defendant then rested without presenting any witnesses.

¶ 15 The trial court issued a written memorandum finding defendant guilty of both counts charged in the indictment. The court noted that the principal issue it had to decide was whether defendant was driving or in actual physical control of the van. Although there was no direct evidence of defendant driving the vehicle, the court found sufficient circumstantial evidence to support such a finding. The court reasoned as follows:

"If the vehicle was in town where one could walk or take public transportation to

get to the vehicle, this Court's finding would be different. However, the defendant is located on Interstate 90 with a disabled vehicle and no other persons present. While he makes some sort of statement on the scene that his brother drove and was on the way to get a jack in Elgin, the reliability and relevance is questionable. How did the brother get to Elgin? Did he walk? Did someone come pick him up? It simply doesn't make any sense. In addition, at the time the defendant made the statements, he was heavily intoxicated and had his drivers [*sic*] license revoked. There was a clear reason for him to lie. The bottom line is that the defendant is 45 miles away from home with a disabled vehicle and nobody else present. The vehicle had to get there somehow. There is no other logical explanation other than: the defendant drove the vehicle on that night while under the influence and with a BAC of 0.08 or greater; around milepost 29.2 the vehicle he was driving got a flat tire; and he was attempting to change the tire at the time the maintenance worker appeared on the scene.

Based upon the above finding, the court does not need to determine whether the defendant's other actions (separate from the court's finding that he was driving) rise to the level of actual physical control."

Based on the one-act, one-crime rule, the court entered a judgment of conviction on Count I of the indictment and dismissed Count II. Thereafter, the trial court denied defendant's posttrial motions. Following a sentencing hearing, the trial court sentenced defendant to a term of two years' imprisonment. This appeal followed.

¶ 16

## II. ANALYSIS

¶ 17 On appeal, defendant argues that the evidence was insufficient to prove him guilty of aggravated DUI beyond a reasonable doubt. In particular, defendant contends that the evidence

presented by the State failed to establish that he drove or was in actual physical control of any vehicle while under the influence of alcohol. Because the trial court determined only that the evidence was sufficient to prove beyond a reasonable doubt that defendant drove the van while under the influence of alcohol, we confine our analysis to that inquiry.

¶ 18 A criminal conviction will not be set aside on appeal unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of a defendant's guilt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). 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.’ ” *Collins*, 106 Ill. 2d at 261 (Emphasis in original.) (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, who 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).

¶ 19 In this case, defendant was convicted of aggravated DUI pursuant to sections 501(a)(2) and 501(d)(1)(H) of the Code (625 ILCS 5/11-501(a)(2), (d)(1)(H) (West 2010)). To obtain this

conviction, the State was required to prove beyond a reasonable doubt that (1) defendant was driving or in actual physical control of any vehicle within this State, (2) while under the influence of alcohol in violation of section 501(a)(2) of the Code, and (3) he committed the violation while he did not possess a valid driver's license or permit. Defendant does not dispute that he was under the influence of alcohol on the night in question or that he did not possess valid driving credentials. However, he maintains that no rational trier of fact could have agreed with the trial court's finding that the State had proven beyond a reasonable doubt that he had driven the van. Defendant acknowledges that the fact that he was found alone outside the van in a remote area coupled with the presence of his cell phone inside the van gives rise to an inference that he had been taken in the van to that location. He claims, however, that he provided the troopers with an exculpatory explanation that was consistent with the evidence and which was not refuted by the State. As such, he concludes that no rational trier of fact could have been convinced beyond a reasonable doubt that he drove the van while he was under the influence of alcohol.

¶ 20 It is well established that 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 elements of an offense, including the driving element of a DUI, by circumstantial evidence alone. *Wheeler*, 226 Ill. 2d at 114; *Lurz*, 379 Ill. App. 3d at 969. 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). Considering the 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 the van at issue.

¶ 21 Although no one observed defendant drive the van or while seated in the vehicle, defendant was found alone outside of the van on the shoulder of an interstate highway. The van was damaged and had a flat tire, and defendant was in the process of changing the spare tire when Battaglia arrived. The van did not belong to defendant. However, it did not belong to defendant's alleged companion either. Instead, the vehicle was registered to Flores, defendant's then girlfriend, who defendant never mentioned being present at the scene. An inventory search of the van's interior yielded a set of keys and defendant's cell phone. As noted above, defendant concedes that these facts give rise to an inference that he was taken in the van to the location in question. We find defendant's presence alone outside of a van registered to his girlfriend in a remote location on the shoulder of an interstate highway may also be reasonably viewed as establishing that defendant himself drove to the location.

¶ 22 In so finding, we acknowledge defendant's statements to Petrak and Burns that he did not drive the van. According to defendant, when the evidence includes uncontradicted statements by the accused or a defense witness, the trier of fact cannot simply ignore the evidence. *People v. Bavas*, 251 Ill. App. 3d 720, 724 (1993). However, the trial court did not ignore the evidence in question. Rather, the trial court determined that defendant's explanation was not credible. Indeed, as the supreme court has noted, "even uncontradicted evidence does not always allow only one inference, particularly where witness testimony is inherently improbable, contains contradictions and omissions, or is incredible." *People v. Wells*, 182 Ill. 2d 471, 485 (1998) (citing *Quock v. Ting*, 140 U.S. 417, 420-21 (1891)). As the trial court noted, defendant had a motive to lie given his state of intoxication and lack of driving credentials. See *Lurz*, 379 Ill.

App. 3d at 971 (noting that the evidence must be considered in light of an individual's interest in the case). Motivation aside, the trial court was justified in concluding that defendant's explanation made little sense. As defendant concedes in his brief, there was at least one cell phone in the van. If, as defendant alleges, he merely needed a jack, he could have easily called someone to bring the tool to the van. Instead, defendant would have the trier of fact believe that he or his brother contacted an individual to come to the van's location, pick up defendant's brother, take him at least 25 miles to Elgin to retrieve a jack, and then return to the van's location on the side of the highway. All the while, defendant was left alone on a cold January evening on the shoulder of an interstate highway in a remote location while inebriated. We also point out that no one showed up with a jack during the time that Battaglia and the troopers were at the scene. The trier of fact, after weighing the evidence and assessing the credibility of the witnesses, concluded that the explanation defendant provided the troopers was not credible. Such a finding was within its province to decide. See *Sutherland*, 223 Ill. 2d at 242.

¶ 23 In short, given the circumstantial evidence presented, coupled with the dubious explanation defendant provided to the troopers, we are unable to conclude that no rational trier of fact could find beyond a reasonable doubt that defendant drove the van while under the influence of alcohol.

¶ 24 III. CONCLUSION

¶ 25 For the reasons stated above, we affirm the judgment of the circuit court of Boone County.

¶ 26 Affirmed.