2016 IL App (2d) 140722-U
No. 2-14-0722
Order filed September 13, 2016

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of Kane County.
Plaintiff-Appellee,	)	
	)	No. 12-CM-2443
v.	)	
	)	
LATASHA A. WILLIAMS,	)	Honorable
	)	John A. Barsanti,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE Burke delivered the judgment of the court.
Presiding Justice Schostok and Justice Hutchinson concurred in the judgment.

ORDER

¶ 1 *Held:* The arresting officer's warrantless, nonconsensual authority to continue his investigation on defendant's enclosed porch was authorized under the emergency exception and defendant was convicted for obstructing this lawful investigation when she re-entered the porch after being directed to leave, pursuant to section 31-1(a) of the Criminal Code of 1961 (720 ILCS 5/31-1(a) (West 2012)); the State proved beyond a reasonable doubt that defendant knowingly obstructed the arresting officer's authorized act; because the arresting officer was justified under the emergency exception to the warrant requirement, defendant's fourth amendment rights were not violated; and defendant was not denied a fair trial as a result of the State's closing arguments; affirmed.

¶ 2 Defendant, Latasha A. Williams, appeals from her conviction of obstructing a peace officer in violation of section 31-1(a) of the Criminal Code of 1961 (Code) (720 ILCS 5/31-1(a)

(West 2012)), following a jury trial. Defendant contends (1) the arresting officer was not engaged in an authorized act when he arrested her; (2) assuming that the arresting officer was engaged in an authorized act when he arrested her, the State failed to prove beyond a reasonable doubt that she knowingly obstructed the officer's authorized act; (3) she may not be held criminally liable for asserting her fourth-amendment right (U.S. Const., amend. IV) against what she believed was an unauthorized entry into her home; and (4) the State denied her right to a fair trial when it misstated the law during closing argument. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 26, 2012, Elgin police officers were dispatched around 1 a.m. to a house located at 611 St. Charles Street concerning a "subject with a gun." The first officer on the scene, Officer Adam Arnold, testified that the first thing he could hear was "pounding or some kind of yelling, something occurring inside the residence." He testified that sometimes it sounded like cupboards were slamming. When asked by the prosecutor whether the sound was more like a "raging party," he responded, "no," that "[i]t was more like hostile." Immediately after he heard something occurring inside the house, somebody ran out of the house yelling that someone has a gun. Officer Arnold was two house lengths away from the residence when he saw the man. He heard a door slam and saw the man in the front yard or coming down the steps when he was yelling that somebody had a gun. Officer Arnold described that person as an African-American male and stated that he was running westbound from the residence.

¶ 5 Initially, Officer Arnold focused on the man running out of the house, but he saw another squad car coming up a different street that was there to intercept him, so he turned his attention back to the house and saw two females on the porch of the residence, and it looked like other

people may have been behind them. Officer Arnold described the house as a single-family structure with an enclosed porch facing St. Charles Street.

¶ 6 Officer Arnold tried to talk to the two females, one of whom was defendant, to establish what was currently happening at the house, to see if anybody was injured and to wait for other officers to arrive and set up a perimeter. As soon as he entered the porch, defendant began yelling at him that he did not have a warrant, that she did not want him there, and that she was not going to let him enter. Defendant was blocking the doorway entrance to the house. Officer Arnold explained that he was trying to get defendant out of the doorway and into a situation where he could get people out of the house so that he could speak with them. Officer Arnold asked defendant several times to get out of the doorway, but she continued to yell that the police did not have a warrant and that she did not want the police there.

¶ 7 Officer Arnold did not hear any more yelling from inside the house, but he did hear some type of commotion in the house. Officer Arnold could see just past defendant at the front entry. There was a short hallway and he could see a room off to the right, but he could not see into the room. He had no idea what was going on in the house.

¶ 8 Officer Arnold asked defendant to move away from the door several times, and defendant stepped away. However, defendant still stood between Officer Arnold and the front door. Defendant stood close to Officer Arnold and she continued yelling. He asked her about six more times "just to get off the porch all together and move to the front yard." Defendant finally left the porch, walked down the steps, and went to the front yard. But within seconds, she returned to the porch and stood in the way again between Officer Arnold and the front door. At that point, Officer Arnold arrested defendant for obstructing.

¶ 9 Officer Arnold testified that the police had been dispatched to that location because someone reported that someone had a weapon. When the police arrived, there were obvious signs of some type of problem in the house, and someone ran out of the house yelling there was someone with a gun. Officer Arnold explained that the police were dealing with an unknown situation; they had no idea what was occurring in the house. On redirect examination, Officer Arnold testified that the investigation was to make sure there was no criminal activity and to make sure no one was injured inside the residence. Defendant stood in front of Officer Arnold and did not allow him to enter the house, which he needed to do in order to investigate what was going on.

¶ 10 Officer Arnold believed the doorway posed a safety issue because he could not see past defendant very well and, if someone came around the corner with any type of weapon or charged out of the house, defendant would be in the line of fire. Also, the police did not want to leave all the people inside the house given the circumstances. Because defendant was yelling and because she was in the way, the police had no way of investigating. Officer Arnold stated that there were "all these people we have to deal with in different rooms and different locations; so the more people we can get out of the house, the safer it is for everybody," and we can interview and search those people, "or whatever needs to be done *** outside of the residence so you don't cause other problems inside the house." Officer Arnold stated that he could not create a safe perimeter or zone with defendant on the porch and her actions impeded the creation of a safe area.

¶ 11 Officer Andrew Houghton also received a dispatch on May 26, 2012, just before 1 a.m. to drive to 611 St. Charles Street regarding a suspect possibly armed with a handgun. He arrived around the same time as Officer Arnold. He testified that a total of six officers responded to the

call that morning. He could see several people on the porch area when he arrived. As he was coming across the yard, three individuals left the porch. One of the three was a male saying that someone had a gun and he was chasing one of the females across the yard. Officer Houghton could not see past all of the people on the porch, but he could hear items moving around inside the house. Officer Houghton testified that initially, there were yelling noises coming from the house, which he described as "hostile." Officer Houghton grabbed the male that had come out of the house yelling that somebody had a gun, which he identified as Brandon Richardson. He immediately handcuffed and patted him down for safety and then escorted him away from the other people. Officer Houghton described the scene as fairly chaotic; there were a lot of people milling around the yard, people on the porch, and "people still kind of yelling."

¶ 12 Officer Houghton testified that his investigation had not been completed after he escorted Richardson away. Officer Houghton stated that he needed to ensure that there was no crime occurring within the house. He noticed Officer Arnold was speaking with defendant on the porch. Defendant was standing "right in the doorway area of the porch," at the entrance to the house. He heard Officer Arnold giving defendant commands to remove herself from the doorway of the house so the police could enter. Officer Houghton stated that defendant did not remove herself, and Officer Arnold then placed her under arrest.

¶ 13 Following closing argument, the jury found defendant guilty of resisting or obstructing a peace officer, and the trial court subsequently sentenced her to 12 months probation. Defendant timely appeals.

¶ 14 II. ANALYSIS

¶ 15 A. Authorized Act

¶ 16 Defendant first contends that Officer Arnold was not engaged in an authorized act within his official capacity when he ordered defendant off the porch because, under the circumstances, he had no right to enter her home without a warrant.

¶ 17 The fourth amendment to the United States Constitution protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const., amend. IV; see also *Elkins v. United States*, 364 U.S. 206, 213 (1960) (observing that fourth amendment applies to state officials through fourteenth amendment). Warrantless searches and seizures inside homes are presumptively unreasonable under the fourth amendment. *Brigham City, Utah v. Stuart*, 547 U.S. 398, 403 (2006). The warrant requirement, however, is subject to certain exceptions. *Id*.

¶ 18 One recognized exception to the warrant requirement, which the State argues is applicable here, is the "emergency exception." Under this exception "[n]o warrant is necessary when police enter into and search the premises with a reasonable belief that immediate action is necessary for the purpose of providing aid to persons or property in need thereof." *People v. Ferral*, 397 Ill. App. 3d 697, 704 (2009). The emergency exception requires that (1) the police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance in the protection of life or property, and (2) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be entered and searched. *Id*. at 705. When analyzing the reasonableness of an officer's conduct in such instances, "the officer's belief concerning the existence of an emergency is determined by the entirety of the circumstances known to the officer at the time of entry." *Id*.

¶ 19 When evaluating whether Officer Arnold was authorized to continue his investigation on defendant's enclosed porch, we consider the information available to him at the time and we

"must focus on the factual considerations upon which reasonable, prudent people, not legal technicians, act." *People v. Pierini*, 278 Ill. App. 3d 974, 979 (1996).

¶ 20 In this case, Officer Arnold was dispatched to defendant's residence because of a report that someone had a gun. When he arrived, Officer Arnold heard yelling and pounding coming from inside the house, which was followed by a man running from the house yelling that someone had a gun. Officer Arnold had no opportunity to ask defendant any questions about what was going on because defendant was yelling at him that he could not enter the house without a warrant. Officer Arnold knew that there were other people in the house and heard the commotion, which was described as "banging" and "hostile" coming from the residence, but the police could not enter the residence because of where defendant was standing. Under these circumstances, a reasonable, prudent person would be justifiably concerned that there was an emergency at hand and that there was an immediate need for police assistance in the protection of life or property, and that the emergency was associated with the address to which Officer Arnold had been dispatched. Here, Officer Arnold had probable cause to investigate whether any crime was occurring within the house. Accordingly, we conclude that exigent circumstances existed for Officer Arnold under the emergency exception to enter the porch and investigate without a warrant.

¶ 21 Defendant was convicted for obstructing this lawful investigation when she re-entered the porch after she was directed to leave. See *People v. Gordon*, 408 Ill. App. 3d 1009, 1017 (2011) (defendant did not comply with repeated directives and defendant's arrest was warranted to gain control of the situation).

¶ 22 Defendant relies on *People v. Jones*, 2015 IL App (2d) 130387, where we reversed the defendant's conviction for obstructing a peace officer. In *Jones*, the defendant conceded that the

officer's initial entry onto the porch was justified. *Jones*, 2015 IL App (2d) 130387, ¶¶ 14. However, we held that the officer's authority to remain on the porch ended when he saw no evidence of violence after viewing the ostensible victim. *Jones*, 2015 IL App (2d) 130387, ¶ 16. Unlike in *Jones*, prior to defendant's arrest, Officer Arnold's investigation had not been completed. He still had not resolved whether someone inside the house was threatening others with a gun.

¶ 23 B. Knowledge

¶ 24 Even assuming the officers were engaged in an authorized act, defendant next contends that the State failed to prove her guilty beyond a reasonable doubt because it did not prove that she "knowingly" was obstructing Officer Arnold's authorized act. Defendant maintains the State failed to prove she knew she was obstructing an authorized act when she did not know why she was being ordered off the porch.

¶ 25 In reviewing a challenge to the sufficiency of the evidence at trial, we must consider "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.) *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *People v. Collins*, 106 Ill. 2d 237, 261 (1985). A criminal conviction will not be set aside unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *Collins*, 106 Ill. 2d at 261. The critical inquiry in reviewing the sufficiency of the evidence is whether the evidence reasonably supports a guilty finding regardless of whether the evidence is direct or circumstantial, or whether the trial was by bench or jury. *People v. Lissade*, 403 Ill. App. 3d 609, 612 (2010). If the court determines that the evidence is insufficient to establish the

defendant's guilt beyond a reasonable doubt, the defendant's conviction must be reversed. *People v. Clinton*, 397 Ill. App. 3d 215, 220 (2009).

¶ 26 Defendant was charged with obstructing a peace officer under section 31-1(a) of the Code. Section 31-1(a) provides that 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 2012).

¶ 27 Defendant argues that the State failed to present any evidence to establish that she was aware of the police purpose for demanding entry to her home. Defendant also argues that it was unclear where she was when Brandon Richardson ran out yelling about a gun, whether she heard him, or even what exactly he yelled or meant. Under such facts, defendant claims that concluding she had knowledge of Officer Arnold's investigation may only be reached by "pyramiding" inference upon inference, which is not sufficient to establish knowledge under the statute. *People v. Kotlinski*, 2011 IL App (2d) 101251, ¶ 55.

¶ 28 In *Kotlinski*, 2011 IL App (2d) 101251, a case upon which defendant relies, we explained that the term "knowledge," as used in section 31-1(a), is similar to "intent" in the sense that it requires conscious awareness. *Kotlinski*, 2011 IL App (2d) 101251, ¶ 54. We also noted that, ordinarily, knowledge is provided by circumstantial evidence, and to meet its burden, "[t]he State must present sufficient evidence from which an inference of knowledge can be made, and any such inference must be based on established facts and not pyramided on intervening inferences." *Kotlinski*, 2011 IL App (2d) 101251, ¶ 55.

¶ 29 Accordingly, the State need not present direct evidence to establish that defendant was aware of why she was being ordered off the porch or whether she was aware of the yelling about a gun. As *Kotlinski* teaches, the State must present sufficient evidence from which an inference

of knowledge can be made, which is ordinarily provided by circumstantial evidence. In this case, the facts here support a finding that the State proved by circumstantial evidence that defendant knew she was obstructing Officer Arnold's attempts to investigate an emergency situation. The State presented evidence of the commotion inside the house and the man yelling someone had a gun outside defendant's house at the time and place where defendant was arrested. A reasonable trier of fact could have inferred from these facts that defendant was consciously aware that her actions of refusing to move away from the door and refusing to leave the porch, and her actions of yelling, and blocking the door once again were impeding Officer Arnold's attempts to investigate.

¶ 30 In *Kotlinski*, the defendant was convicted of obstructing a peace officer when he allegedly interfered with a police investigation into whether his wife was driving while under the influence. *Id*. ¶¶ 1, 15. The officer who was conducting field sobriety testing on the defendant's wife told the defendant to remain in the car while the officer conducted the tests. The defendant remained in the car for over four minutes. It was only when the officer moved the defendant's wife from the defendant's view that the defendant stepped out of the car. The only reasonable inference that the jury could draw from these facts was that the defendant exited the car because he could not see what was happening with his wife. This meant that he did not know what the officer was doing. Furthermore, we concluded that by standing next to the car, not advancing toward the officer, not speaking, and not gesturing, the defendant showed no awareness that he was obstructing the officer's investigation, any more than the defendant showed no awareness that he was obstructing the officer's investigation from watching inside the car. *Id*. at ¶ 57. In contrast, here there is no evidence that Officer Arnold had concluded his investigation of the disturbance when defendant committed the obstructing acts.

¶ 31 C. Fourth Amendment

¶ 32 Defendant next contends that her conviction for obstructing criminalizes the exercise of her fourth amendment right to refuse Officer Arnold's unlawful entry into her home. This argument presupposes Officer Arnold's entry was unlawful. However, in the first argument, we found that Officer Arnold was justified under the emergency exception to the warrant requirement to enter the porch and search the premises. See *Jones*, 2015 IL App (2d) 130387, ¶ 14. Accordingly, defendant's argument is not well taken.

¶ 33 D. Closing Argument

¶ 34 Defendant last claims that statements made by the prosecutor during her closing argument inaccurately stated that the State had no obligation to prove knowledge. Defendant failed to preserve this alleged error but argues that both prongs of plain error apply.

¶ 35 In Illinois, the plain-error doctrine allows a reviewing court to address forfeited errors affecting substantial rights under two circumstances: (1) where the evidence in a case is so closely balanced that the jury's guilty verdict may have resulted from the error and not the evidence; and (2) where the error is so serious that the defendant was denied a substantial right, and therefore a fair trial. *People v. Herron*, 215 Ill. 2d 167, 178-79 (2005). Before addressing either of these prongs of the plain-error doctrine, however, we must determine whether a "clear or obvious" error occurred at all. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007).

¶ 36 Defendant points to two arguments made by the prosecutor which defendant alleges were inaccurate statements of the law. The first argument occurred during opening summation at the close of trial. The prosecutor was describing to the jury that they were going to receive an instruction on what constituted obstructing a peace officer and that the State had to prove, beyond a reasonable doubt, three separate propositions. In noting the third proposition, the

prosecutor stated "that the defendant knowingly resisted or obstructed the performance by [Officer] Arnold of an authorized act within his official capacity," and the prosecutor commented that it was "kind of long." So she attempted to make it easier for the jury to understand. It is the comments that followed that defendant claims constituted a misstatement of the law:

> "The first part, knowingly resisted or obstructed, it wasn't an accident that she was in the doorway. She didn't trip and fall, placing herself in that doorway. She didn't try to leave the residence and get stuck in the doorway where she couldn't move. She had the ability to move her feet. She simply chose not to when the officer commanded her to do so."

Defendant argues that these comments "allowed the jury to convict the defendant based simply on whether the defendant acted voluntarily, thereby denying the defendant a fair trial."

¶ 37 The second argument of which defendant complains occurred during rebuttal, when the prosecutor stated:

> "You are also not going to find anywhere in these instructions that the police, when they responded to that house and they encountered the defendant not letting them in the house, that they had to explain to her what call they had, that they had to explain their reasons for going inside, what their legal basis was for going in. None of that is required by the law."

Defendant's argument that these comments were misstatements of law is premised on her previous contention that the State failed to prove that defendant knowingly obstructed Officer Arnold's authorized act. As we already determined, knowledge concerns what defendant was consciously aware of and is ordinarily proved by circumstantial evidence. See *Kotlinski*, 2011 IL (2d) 101251, ¶ 54. Thus, this is not a misstatement of the law.

¶ 38 While the State's comments could have been more artful, it argued that defendant's voluntary actions knowingly obstructed the officer's investigation. The State did not rely on only voluntary actions and eliminate the knowledge element from their argument. The totality of the State's argument combined with the jury instructions did not establish error, much less, plain error.

¶ 39 III. CONCLUSION

¶ 40 For the reasons stated, the judgment of the Circuit Court of Kane County is affirmed.

¶ 41 Affirmed.