

2016 IL App (2d) 151025-U  
No. 2-15-1025  
Order filed September 14, 2016

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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. 13-CF-213
	)	
VICKI M. HARRISON,	)	Honorable
	)	Robert C. Tobin III,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE JORGENSEN delivered the judgment of the court.  
Justices Zenoff and Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court properly excluded testimony and limited closing argument concerning defendant's reason for leaving the scene of a traffic stop, where the evidence and argument were directed at her motive for fleeing, which was relevant only to her undisputedly non-viable necessity defense, not her intent to flee from the police. Affirmed.

¶ 2 Following a jury trial, defendant, Vicki M. Harrison, was convicted of aggravated fleeing or attempting to elude a peace officer (625 ILCS 5/11-204.1(a)(4) (West 2012)) and sentenced to one year imprisonment to be served consecutively with a three-year sentence on a related driving-on-a-suspended-license conviction (625 ILCS 5/6-303(a) (West 2012)). The trial court

denied her posttrial motion. Defendant appeals, arguing that the trial court erred in excluding testimony and limiting closing argument regarding her reason for fleeing from a traffic stop. We affirm.

¶ 3

### I. BACKGROUND

¶ 4 In 2013, defendant, age 57, resided at 1609 Pearl Street in Belvidere.

¶ 5 The indictment alleged that, on or about October 6, 2013, after being given visual and audible signals by Belvidere police officer Ryan Davenport to stop, defendant refused to obey such direction and, while attempting to elude the officer, disobeyed two traffic control devices—a stop sign at Union Avenue and 8th Street and a stop sign at Union Avenue and 6th Street.

¶ 6 Officers Davenport and Julie Gruber were on patrol in a marked squad car, when Gruber observed defendant in her vehicle, traveling northbound on Pearl Street, while on a suspended driver's license. (Gruber confirmed this through dispatch.) Davenport activated his vehicle's overhead lights and initiated a stop. Defendant pulled over on Allen Street at the corner of Union Avenue. Davenport stated that he approached defendant's vehicle. Defendant presented a State-issued identification card. As Davenport returned to his squad car, defendant drove away "at a high rate of speed" southbound on Union Avenue. The officers pursued her. Defendant's vehicle traveled at least 21 miles per hour over the speed limit "to elude us and disobeyed 2 stop signs." The officers located defendant at 1726 Maple Avenue, where she was placed in custody.

¶ 7

#### A. Officer Ryan Davenport

¶ 8 Trial occurred on February 18, 2015. The State's only witness was officer Davenport.

¶ 9 Davenport testified that he started working for the Belvidere police department in April 2013. He was still in field training on October 6, 2013. On that date, Davenport, in uniform, was on patrol with Gruber, who was his field-training officer and a K-9 officer. They rode in a

marked squad car, specifically, a K-9 officer patrol vehicle, with police insignia. The vehicle had a clear light bar on top with alternating flashing red and blue lights, and it was equipped with a siren. The car was also equipped with a video recording system, and Davenport was trained in the use of the equipment and used it to record the events that day.

¶ 10 At about 3:05 p.m., Davenport and Gruber travelled northbound on Pearl Street, across from the department-of-motor-vehicle building and in a residential area. The road is a two-lane divided highway. The weather was clear. At one point, Davenport noticed a silver 2002 Pontiac Grand Prix backing out of a driveway. Gruber was familiar with the vehicle and communicated her familiarity with it to Davenport. When Davenport initially saw the car, he and Gruber were about two blocks away from it. As they got closer, he observed that the driver, whose face he could not see, had blonde hair and that there was a dog in the back seat.

¶ 11 Based upon the recognition of the vehicle and the driver, the officers followed the vehicle. Davenport explained that he did not have any particular knowledge of the status of the driver's license, but Gruber did and communicated that to him. At one point, Gruber confirmed, through the dispatch center, the license's status as suspended.

¶ 12 As they approached and went through the intersection of Fifth and Pearl streets, Davenport did not observe any traffic violations. However, as the police officers approached Fifth and Allen streets, they were behind the vehicle and Davenport activated his vehicle's overhead lights and attempted to pull over the vehicle because the driver was known to have a suspended license. The vehicle continued northbound on Pearl Street, turning westbound onto Allen Street. "It did not pull over right away." The vehicle pulled over at Allen and Union streets, and Davenport pulled up behind her vehicle.

¶ 13 Defendant exited her vehicle, and the officers ordered her back into her vehicle. Defendant complied. Davenport approached the driver's side of defendant's vehicle, and Gruber approached the passenger side of the vehicle. Davenport noticed a dog, which barked a couple of times, but stopped. While Davenport spoke to defendant, the dog appeared calm. Davenport asked defendant for her driver's license, and defendant presented a State identification card. Davenport also asked for proof of insurance, but defendant did not provide it. After Davenport spoke to defendant, he and Gruber returned to their squad car. Davenport then noticed the brakes engage on defendant's vehicle, "[a]nd she took off." Davenport initiated a pursuit.

¶ 14 Describing the immediate area, Davenport testified that it was a residential area with low traffic conditions. There were no pedestrians present. Defendant travelled westbound, then turned left (southbound) onto Union Avenue. She cut off a vehicle on Union Avenue when she turned off of Allen Street. At this point, Davenport's squad car lights were on, and his siren was activated. Defendant's vehicle was about two blocks ahead of him.

¶ 15 Davenport radioed in that a vehicle had fled and that they were in pursuit. Davenport travelled about 50 miles per hour (according to his speedometer). The speed limit near Union and Allen streets was 25 miles per hour. He briefly caught up with defendant, but she pulled away as he was travelling at 50 miles per hour. Defendant's vehicle was travelling in excess of 21 miles over the speed limit.

¶ 16 As defendant's vehicle approached the intersection of Union Avenue and 6th Street, she travelled through a stop sign without stopping. This intersection is "fairly busy" and there was traffic going both ways. It is the main east-west route in the city and one of the larger thoroughfares. There are no traffic control devices for cars on 6th Street. Traffic was "dense"

on 6th Street that day, a Sunday. As defendant crossed the intersection, another driver had to slam on his/her brakes to avoid a collision.

¶ 17 Davenport followed defendant southbound on Union Avenue and observed her go through another stop sign at the intersection of Union and 8th streets. There were other vehicles travelling at the intersection. There were stop signs at both intersections for traffic going southbound and defendant did not stop at the stop signs.

¶ 18 At this time, Davenport's sergeant advised him to terminate the pursuit. Davenport shut down his squad car's overhead lights and turned off the siren. He continued to follow defendant's vehicle. As he followed defendant, he believed that defendant was traveling to her mother's house on Maple Avenue. Gruber had prior knowledge of where defendant's mother lived and had advised Davenport of this. Gruber instructed Davenport to continue to follow defendant.

¶ 19 Davenport reviewed a map of the Belvidere to help demonstrate where the events occurred. The entire pursuit lasted a "few minutes."

¶ 20 When Davenport arrived at defendant's mother's house, at 1726 Maple Avenue, he and Gruber exited the squad car and radioed in their location. He observed defendant exit her vehicle, which was in the driveway, and stand in the driveway, about 20 feet back and next to the house. Davenport did not observe defendant's dog, and he could not recall if defendant made any indication to him about the dog. At no time did Davenport believe that defendant's dog posed a threat to him or Gruber. There was no one else present at this time, and Davenport did not see defendant's mother.

¶ 21 When he first observed defendant at the residence, she exited her vehicle, raised her hands (the officers were telling her that she was under arrest), and "[s]he said that she had to take

a shit and was trying to re-enter her residence.” Davenport advised defendant that she was under arrest for running from the police. Defendant was upset. She asked if she could leave her purse with her mother.

¶ 22 When asked if defendant explained to the officers why she was driving the car, Davenport testified that defendant stated that she was going to get some chicken. She did not state that her dog posed a threat to herself or the officers.

¶ 23 Davenport took defendant into custody for fleeing from the police and driving on a suspended driver’s license. At the Boone County jail, defendant’s demeanor was “okay” and there were no issues. She did not request to use the restroom. Davenport verified that defendant’s driver’s license had been suspended on that date (and exhibit No. 3, a certified statutory summary suspension was admitted into evidence), a point to which defendant stipulated.

¶ 24 The State published a video of Davenport’s squad car recorder, and defendant stipulated to the exhibit. Afterwards, Davenport testified that all of the events occurred in Boone County.

¶ 25 (According to this court’s review, the video depicts defendant exiting her vehicle immediately after the initial stop. The officers instruct her to get back into her vehicle, and defendant complies. As the officers approach, Gruber tells Davenport that defendant’s dog is not friendly. They ask for identification and insurance documentation. Defendant provides an identification card. A dog barks. About ½ block ahead of defendant’s vehicle, two young males skateboard toward the intersection and her vehicle but turn left (from defendant’s and the officers’ perspective) down Union. When the officers return to their squad car, the brake lights on defendant’s car flash three times and she quickly pulls away from the area where she had pulled over and makes an almost immediate left turn. The officers pursue her, and their squad

car travels at 53 miles per hour before catching up to defendant's vehicle. Thereafter, the squad car travels over 40 miles per hour (and up to 48 miles per hour) during the time defendant drives through two stop signs. There is no cross-traffic at the two intersections. At one point, Gruber tells Davenport that defendant is going to her mother's house. Thereafter, the officers continue to follow defendant through two turns and to her mother's house (at slower rates of speed). Next, the video image of defendant's vehicle is partly obstructed by her mother's house (because the driveway continues behind a portion of the house). The audio recording is not clear, but as the officers approach the back of the driveway, defendant appears, standing behind her vehicle, and the officers ask about the location of defendant's dog. Thereafter, the parties are not in view, but the audio, not all of which is clear, records a barking dog and defendant states that she needs to go to the bathroom. At another point, defendant speaks to her mother and tells her to call someone and to take care of Splash. At another point, Davenport tells defendant that "you just ran from us," and defendant responds, "I wanted to get my dog here." Davenport tells defendant that she cannot do that, and defendant replies that she does not want them to kill her dog. Next on the video, defendant appears handcuffed and is being escorted down the driveway by the officers to their squad car.)

¶ 26 On cross-examination, Davenport testified that his police training included firearms training. He did not have any prior police or military experience before becoming a Belvidere police officer. Davenport explained that, when he first turned on his lights to pull over defendant, defendant was already starting to make the turn off of Pearl Street. Defendant pulled over.

¶ 27 Addressing defendant's dog, when Davenport first approached defendant's car, he commented that it was a big dog and questioned Gruber as to whether the dog was friendly

because Gruber had had prior experiences with defendant and was familiar with her house. As he approached defendant's car, Davenport put his hand on his service weapon, just as he does with most traffic stops.

¶ 28 Davenport was not able to "obtain a radar" on defendant's speed. He estimated defendant's speed at the point when she had driven off down Union Avenue, after the traffic stop had started. This was before the first stop sign. He was trying to catch up to her, and he was gaining distance. He disagreed with defense counsel's suggestion that he had to be driving faster than defendant. Davenport explained that defendant "was pulling away from me."

¶ 29 The car that slammed on its brakes was at Allen and Union streets. It had started making its way through the intersection. (Davenport denied that the vehicle slammed on its brakes when the squad car went through the intersection.) There was no car that had to slam on its brakes at 6th and Union streets. In contrast with his testimony on direct examination, Davenport testified that, when defendant drove through the stop sign at Union and 6th streets, there was no cross-traffic. Indeed, when defendant drove through both stop signs, there was no cross traffic.

¶ 30 As defendant approached 10th and Union streets, she signaled and made a right turn. When she turned off of 10th onto Maple streets, she again signaled her intent to turn. At this point, Gruber knew exactly where defendant was going.

¶ 31 Davenport conceded that he had testified that, when defendant exited her car in her mother's driveway, the first thing she said was that she had to use the restroom. However, he admitted that his police report stated that, before she said anything about needing to go to the bathroom, defendant stated that she had to get her dog there so that the dog would not get shot. Davenport did not actually see defendant exit her vehicle. She was out of her car and walking

down the driveway towards Davenport as he was getting out of his squad car. She was not running away or trying to hop over a fence.

¶ 32 Davenport conceded that the video showed defendant state multiple times that she had to get the dog there. Also, when Davenport said, “ ‘You just ran,’ ” defendant responded, “ ‘I was trying to get the dog here’ ” while she was running.

¶ 33 When defendant made the statement about needing to use the restroom, she tried to approach the residence. Davenport and Gruber told her not to, and defendant stopped by her vehicle and allowed the officers to handcuff her, although she did pull away. Davenport did not charge her with resisting arrest and did not mention this in his police report, explaining that he felt that he had control over defendant. The handcuffing was out of view of the camera.

¶ 34 After the initial stop, as Davenport returned to his squad car, he saw the reverse lights on defendant’s car flash twice and he saw the brake lights tapping multiple times. This was immediately after he heard Gruber’s K-9 start to bark loudly.

¶ 35 On re-direct, Davenport testified that the speed limit on Union Avenue is 25 miles per hour. As defendant’s car turned onto Union Avenue, it was several blocks ahead of Davenport, who had to accelerate to 50 miles per hour to catch up to defendant. To travel 21 miles per hour over the speed limit, defendant would have to travel at least 46 miles per hour. In Davenport’s estimation, “she was traveling greater than 46 miles per hour over the speed limit of 25.”

¶ 36 Addressing the video, Davenport testified that he could not hear from the audio whether defendant first stated that she needed to use the bathroom or that she needed to get her dog home first. Further, any mention about the dog being harmed or her leaving to take the dog home occurred after defendant was in custody. At no time did defendant mention to Davenport that the dog was a threat to either her or the officer.

¶ 37 Gruber's K-9, Wilma, began to bark when Davenport and Gruber returned to the squad car. Wilma also began to bark as the officers were bringing defendant to the squad car.

¶ 38 On re-cross-examination, Davenport agreed that, as soon as defendant comes into view in the video, the first thing she tells him is that she has to get the dog there. Thus, it was true that she told him about the dog before being handcuffed (contrary to Davenport's re-direct-examination testimony). She mentioned the bathroom after she put the dog in the yard and approached the officers. The first thing she said, per the video, was why she left—to get the dog there.

¶ 39 The State rested.

¶ 40 B. Defendant

¶ 41 Defendant presented only her own testimony during her case-in-chief. Defendant testified that, on the day of the incident, her driver's license was suspended and she knew it was suspended. That day, she drove her mother's vehicle (it was registered in her mother's name) to go buy chicken for her mother.

¶ 42 When defendant turned off of Pearl Street and onto Allen Street, she saw the lights activated on the squad car that was behind her. She pulled over on Allen Street. Her dog, Splash, was in the car with her, sitting in the front in the seat next to defendant. When defendant was initially pulled over, Splash was calm.

¶ 43 Splash is a 10-year-old pit bull and weighs 85 pounds; he is  $\frac{1}{2}$  to  $\frac{3}{4}$  defendant's size. Splash is well behaved, except when defendant is threatened or in certain settings. When he is protective, he becomes aggressive to others. Splash snorts and breathes heavily, curls his lips, shows his teeth, and growls. Also, the hair on the back of his neck bristles and his tail stands up. Defendant explained that Splash becomes aggressive/hyper if he hears other dogs barking, or if

he becomes nervous or anxious. In these instances, Splash lunges forward, shakes his head, growls, and goes after whatever is irritating him.

¶ 44 On the date of the incident, defendant knew that, as a result of driving while her license was suspended, she was going to go to jail. After she was first pulled over, she exited her car to explain to the officers that she had a dog in her car and “that the dog wouldn’t be friendly if other people were approaching the car.” Splash “started going off” when the officers returned to their squad car. The officers’ K-9 had started barking. Defendant believed that the K-9 was going to trigger Splash into an aggressive state. She became nervous and anxious and put her foot on the brake “because I was trying to figure out what I was going to do.” She feared that “something was going to happen with my dog.” Defendant noticed that her gas tank was nearly empty, and she determined that her only option was “to flee so no one else got hurt with my dog.”

¶ 45 At the point when defendant decided to leave the scene of the traffic stop, she knew how far she was from her mother’s house. She has lived in Belvidere since she was five years old. Defendant has had other contacts with the Belvidere police; they knew her, and she knew them.

¶ 46 When she turned onto Union Avenue, a car was approaching the intersection, but had not yet reached the intersection. Defendant does not know the speed at which she traveled down Union Avenue. Defendant believed that she would not be able to stop at any point before she got to her mom’s fenced yard because the situation would “explode.” Defendant saw that the officers followed behind her, and she tried to let them know where she was going by signaling at each turn and using her bright lights. “I did all my perfect traffic stuff.” She anticipated that the officers would follow her to her mother’s house.

¶ 47 Once defendant reached her mother’s house, she drove onto the driveway and parked the car close to the chain-link fence. She then took three steps out of the car, let out Splash, put him

in the fenced yard, and shut the gate. (Splash cannot get over the fence.) Immediately after putting the dog in the yard, defendant walked toward her car and then toward the officers. She knew she was going to be arrested. She told the officers that she needed to use the restroom (“I really had to go to the bathroom”). She denied pulling away from officer Davenport. Although she needed to use the restroom, she complied with the officers’ orders. Defendant denied that, at any point, she tried to get away or escape from the officers.

¶ 48 (The trial court sustained the State’s objection to testimony concerning defendant’s motive for leaving the traffic stop. It ruled that the necessity defense was not available because defendant created the situation that initiated the stop, namely, driving while her license was suspended. Defense counsel made an offer of proof that the dog had not always responded aggressively, just to police officers. This situation, counsel urged, was not merely a traffic stop, but it was one with a K-9 officer. The trial court found that no foundation was laid for the affirmative defense and that the evidence was not relevant.)

¶ 49 On cross-examination, defendant testified that she did not see two young males skateboarding at the intersection on Allen Street and she did not see any cars traveling through the intersection while she was interacting with the officers.

¶ 50 When the officers approached defendant’s car during the initial stop, Splash barked a few times and then remained calm. The officers asked defendant a few questions and then left to return to their squad car. At this point, defendant heard the K-9 barking. Splash was not barking. “My dog doesn’t bark that much.” She agreed that the video did not reflect that Splash was acting aggressively in response to another dog. However, when the officers returned to their vehicle, Splash began to be aggressive (even though this is not reflected in the video and even though he did not bark).

¶ 51 Part of the reason defendant was anxious and panicky was because she knew she was going to jail for driving while her license was suspended. She denied that this was the reason she took off. Defendant agreed that she turned on her car, placed it in gear, tapped her brakes twice, revved her engine, and took off. “I thought I had no other option with the dog.” “I fled from the stop.” “I took off from that stop; yes, I did.”

¶ 52 When she turned onto Union Avenue, defendant did not see any skateboarders. She did not know at what speed she was driving. She agreed that driving through two stop signs was not perfect driving.

¶ 53 After she put Splash into the fenced yard, the dog was not aggressive toward the officers. Defendant denied that she was in custody when she first told the officers that she wanted to get Splash home so they would not shoot him.

¶ 54 On re-direct examination, defendant testified that the microphone that recorded the audio was on the officer and, thus, as the officer returned to the squad car, the dog barking in his car was louder than the dog growling in defendant’s car. Part of the reason defendant was upset during the traffic stop was that she knew she was going to jail. The other part of the reason she was upset was that she feared something was going to happen with her dog.

¶ 55 The first thing defendant said to the officers when she got to her mother’s house concerned the dog, not that she had to use the bathroom.

¶ 56 C. Offer of Proof and Verdict

¶ 57 At the conclusion of defendant’s testimony, defense counsel completed his offer of proof on the necessity defense. The trial court determined that the defense was not available. The court also barred the parties from commenting on the dog during closing arguments and barred

arguments that defendant left the scene of the stop to get her dog to her mother's house. The court stated:

“[F]rom the minute she got behind the wheel of a vehicle and operated that motor vehicle at a time she knew to be suspended, she was committing a criminal offense. That continued through the traffic stop and even after the traffic stop.

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So I'm going to find the necessity defense is not available. I'm also going to bar the defense from arguing jury nullification<sup>[1]</sup> in a backdoor way through the necessity defense.

Obviously you can discuss whether or not the State has—whether the evidence is sufficient for *mens rea*. But, again, the *mens rea* here is limited to the *mens rea* as established by the charging document and the offense as opposed to the *mens rea* of the necessity defense.”

¶ 58 Later in the proceedings, the court commented:

“[Y]ou cannot argue to the jury that the reason that she left the scene was to get her dog home; it was not to elude a police officer, because that would be a misrepresentation of the law.

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<sup>1</sup> See, e.g., *People v. Smith*, 296 Ill. App. 3d 435, 441 (1998) (Steigmann, J., specially concurring) (jury nullification occurs when jurors choose to disregard the law and, based on considerations that have no legal justification, such as the race, character, or status of either the victim or the accused, acquit a defendant because they believe they are achieving “true justice”).

Attempting to elude a peace officer is simply leaving a traffic—in this situation, a traffic stop. The willfulness is that she either willfully put the car in drive and left or she somehow inadvertently hit it and it just started to roll away.”

¶ 59 The court also ruled:

“And, again, just to be clear, for closing arguments, the defendant is barred from arguing that she left the scene of the stop to put her dog out. Because, again, that is jury nullification. It’s based upon a defense that was attempted but not successful, of necessity.

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So, again, in closing I’m barring the defendant, and I guess the State for that purpose too, of even commenting on the fact that there was a dog in the car and that she just wanted to get the dog home.”

¶ 60 The jury found defendant guilty of: (1) aggravated fleeing or attempting to elude a police officer (based on disobeying two traffic devices) (count I); (2) fleeing or attempting to elude a police officer (a misdemeanor, lesser-included offense) (count II); and (3) driving on a suspended license (separate case No. 13-TR-9021). The court entered judgments of conviction on counts I and III. The trial court sentenced defendant to one year imprisonment on the fleeing-and-eluding count, to be served consecutively with a three-year sentence for driving on a suspended license.

¶ 61 On June 12, 2015, defendant move to reconsider her sentence, and, on August 27, 2015, she moved for a new trial. The trial court denied both motions on September 17, 2015. Defendant appeals.

¶ 62

## II. ANALYSIS

¶ 63 Defendant argues that, by precluding her from explaining why she left the scene and precluding defense counsel from arguing defendant's motive in leaving, the trial court denied defendant her constitutional right to present a defense (by excluding her testimony) and abused its discretion (in limiting closing argument). Defendant contends that her conviction must be reversed. (Defendant does not contest the trial court's finding on the necessity defense.<sup>2</sup>) The State responds that defendant's motive for leaving the scene of the traffic stop had no bearing on the mental state for aggravated fleeing or attempting to elude a police officer, and, therefore, the trial court's rulings did not prevent defendant from presenting a defense or constitute an abuse of discretion. For the following reasons, we agree with the State.

¶ 64 Fleeing or attempting to elude a peace officer is defined in the Illinois Vehicle Code (625 ILCS 5/1-100 *et seq.* (West 2014)) as follows:

“Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a peace officer directing such driver or operator to bring his [or her] vehicle to a stop, *wilfully* fails or refuses to obey such direction, increases his [or her] speed, extinguishes his [or her] lights, or otherwise flees or attempts to elude the officer, is guilty of a Class A misdemeanor. The signal given by the peace officer may be by hand, voice, siren, red or blue light. Provided, the officer giving such signal shall be in

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<sup>2</sup> The Criminal Code of 2012 (720 ILCS 5/1-1 *et seq.* (West 2014)) defines necessity as follows: “[c]onduct which would otherwise be an offense is justifiable by reason of necessity *if the accused was without blame in occasioning or developing the situation* and reasonably believed such conduct was necessary to avoid a public or private injury greater than the injury which might reasonably result from his [or her] own conduct.” (Emphasis added.) 720 ILCS 5/7-13 (West 2014).

police uniform, and, if driving a vehicle, such vehicle shall display illuminated oscillating, rotating or flashing red or blue lights which when used in conjunction with an audible horn or siren would indicate the vehicle to be an official police vehicle.” (Emphasis added.) 625 ILCS 5/11-204(a) (West 2014).

¶ 65 Aggravated fleeing or attempting to elude a peace officer “is committed by any driver who flees or attempts to elude a peace officer, after being given a visual or audible signal by a peace officer in the manner prescribed in subsection (a) of section 11-204 of this Code, and such flight or attempt to elude: (1) is at a rate of speed at least 21 miles per hour over the posted speed limit; (2) causes bodily injury to an individual; (3) causes damage to property in excess of \$300; (4) involves disobedience of two or more official traffic control devices; or (5) involves the concealing or altering of the vehicle’s registration plate.” 625 ILCS 5/11-204.1(a) (West 2014).

¶ 66 Fleeing or eluding occurs “even though the accused obeys the direction to stop but then, before the purpose of the stop is complete, flees.” *People v. Cameron*, 189 Ill. App. 3d 998, 1008 (1989) (addressing section 11-204(a) of the Illinois Vehicle Code, defining the nonaggravated offense).

¶ 67 A fleeing-and-eluding conviction requires proof of a *wilful* failure or refusal to obey a visual or audible signal of a police officer or to otherwise flee or attempt to elude the officer. 625 ILCS 5/11-204(a) (West 2014); *People v. Pena*, 170 Ill. App. 3d 347, 354 (1988). See, e.g., *People v. Trump*, 62 Ill. App. 3d 747, 749-50 (1978) (where officer followed the defendant for over one mile in a marked squad car with lights and siren activated, jury could reasonably infer that the defendant wilfully attempted to elude the officer); see also *People v. Deakyne*, 83 Ill. App. 2d 338, 342 (1967) (act of eluding includes the element of wilfulness).

¶ 68 The Code defines wilful conduct as conduct performed knowingly or with knowledge. 720 ILCS 5/4-5 (West 2014).

“A person knows, or acts knowingly or with knowledge of:

(a) The nature or attendant circumstances of his or her conduct, described by the statute defining the offense, when he or she is consciously aware that his or her conduct is of that nature or that those circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that the fact exists.

(b) The result of his or her conduct, described by the statute defining the offense, when he or she is consciously aware that that result is practically certain to be caused by his conduct.

Conduct performed knowingly or with knowledge is performed wilfully, within the meaning of a statute using the term ‘willfully’, unless the statute clearly requires another meaning.” 720 ILCS 5/4-5 (West 2012).

¶ 69 An individual charged with a criminal offense has the right to present one or more defenses to the offense, and to present his or her “ ‘version of the facts as well as the prosecution’s to the [trier of fact] so it may decide where the truth lies.’ ” *People v. Manion*, 67 Ill. 2d 564, 576 (1977) (quoting *Washington v. Texas*, 388 U.S. 14, 19 (1967)). “While it is true that a defendant has the right to present a defense [citation], it is also true that the trial court is vested with broad discretion in ruling on the admissibility of evidence sought to be excluded as irrelevant.” *People v. Hayes*, 353 Ill. App. 3d 578, 583 (2004). The admission of evidence lies within the sound discretion of the trial court; we will not reverse its evidentiary hearings absent a clear abuse its discretion, resulting in manifest prejudice to the accused. *People v. Tolliver*, 347 Ill. App. 3d 203, 222 (2004). Similarly, the character and scope of closing argument are within

the discretion of the trial court and, absent an abuse, the trial court's ruling will not be reversed. *People v. Smothers*, 55 Ill. 2d 172, 176 (1973). An abuse of discretion occurs only where no reasonable person would take the view adopted by the trial court. *People v. Leak*, 398 Ill. App. 3d 798, 824 (2010).

¶ 70 Defendant complains that she was precluded from testifying as to her reasons for leaving the scene of the traffic stop: to remove her dog from the scene and avoid a potentially dangerous situation. The trial court ruled that, because defendant was driving on a suspended license, she had created the situation that led to the stop and, thus, excluded her proffered testimony. In defendant's view, her intent was the only issue in this case: was she fleeing from or attempting to elude the police, or was she trying to get her dog home and behind a fence before it reacted to the situation and ended up shot as a result? Defendant asserts that the trial court erroneously excluded her testimony and defense counsel's closing argument about her reasons for leaving the scene.

¶ 71 We conclude that the trial court did not err in excluding the testimony or limiting closing arguments. Defendant's reason for fleeing goes to her *motive* for doing so, which, in turn, is tied to her undisputedly non-viable necessity defense. She ignores that her *intent* was to flee. See *People v. Boyd*, 366 Ill. App. 3d 84, 92 (2006) (noting that intent is defined as a state of mind accompanying a forbidden act or the determination to do some act, whereas motive is defined as the inducement to so some act); see also *State Farm Fire & Casualty Co. v. Carter*, 432 S.E.2d 614, 615-16 (Ga. Ct. App. 1993) ("motive answers 'why' whereas intent answers 'what' "). Defendant ignores or misses this critical distinction. Her motive for fleeing did not undo or negate her intent, *i.e.*, wilfully fleeing from the scene. (Indeed, defendant testified, and the video depicted, that she "fled from the stop.") We agree with the State that any additional

evidence or argument concerning defendant's motive, in light of the fact that the necessity defense was no longer viable (and defendant does not contest this finding on appeal), could have led to juror confusion about the actual mental state of the offense and, as the trial court reasonably determined, could have prompted jury nullification. The excluded evidence and argument was not relevant to any element the State had to prove and could only have resulted, again, in juror confusion because it was relevant only to the necessity defense. We acknowledge that *some* testimonial evidence *was* given about defendant's dog and her reason for leaving the scene, but the trial court's ruling, limiting closing argument and instructing the jury to disregard it, properly encompassed this evidence, too, to reduce the likelihood of nullification.

¶ 72

### III. CONCLUSION

¶ 73 For the reasons stated, the judgment of the circuit court of Boone County is affirmed.

¶ 74 Affirmed.