

2017 IL App (1st) 143271-U

No. 1-14-3271

Order filed May 3, 2017

Third Division

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 10 CR 108825
)	
JONOL MORROW,)	Honorable
)	Dennis J. Porter,
Defendant-Appellant.)	Judge, presiding.

JUSTICE PUCINKSI delivered the judgment of the court.
Justices Lavin and Cobbs concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant's convictions for dog fighting were affirmed where the evidence was sufficient to prove defendant promoted dog fighting.
- ¶ 2 Following a joint bench trial, defendant Jonol Morrow was convicted of one count each of attending a dog fight (720 ILCS 5/26-5(g) (West 2010)) and promoting dog fighting (720

ILCS 5/26-5(b) (West 2010)).¹ At sentencing, the convictions merged and defendant was sentenced to two years' imprisonment on the promotion of dog fighting conviction. On appeal, defendant argues that the evidence presented at trial was insufficient to prove beyond a reasonable doubt that he assisted in the presentation of dog fighting by refereeing or taking wagers. We affirm.

¶ 3 Defendant was charged by indictment with one count of attending a dog fight (720 ILCS 5/26-5(g) (West 2010)) and one count of promoting dog fighting (720 ILCS 5/26-5(b) (West 2010)). Codefendants Richard Bullock and Demitris Wyatt were charged with owning dogs used in dog fighting (720 ILCS 5/26-5(a) (West 2010)) and attending dog fights (720 ILCS 5/26-5(g) (West 2010)). Bullock was also charged with animal torture (510 ILCS 70/3.03 (West 2010)). The case against the defendants proceeded to a simultaneous bench trial.

¶ 4 At trial, Officer Sean Flynn testified that, shortly after 8 p.m. on April 18, 2010, he and his partner, Chris Tottas, responded to a report of dog fighting and drove to the area of 1057 North Kilbourn Avenue in Chicago. The address was a two-story apartment building with a common entryway containing a staircase which provided access to the basement and second floor. When Flynn and Tottas arrived, the lights were on on the north side of the first floor. Sounds of people yelling and dogs barking and crying emanated from the first floor. Flynn exited his squad car and saw a man, later identified as codefendant Bullock, at the first floor window. Bullock saw the officers and yelled something to the effect of, "Oh, shit, the police are here." Flynn saw six or seven people jump out of a back window while others fled to the second floor. As other police officers arrived, Flynn went around to the back entrance and Tottas went to the

¹ Section 26-5 was subsequently amended and renumbered as section 48-1 by Public Act 97-1108, § 10-5, effective January 1, 2013 (720 ILCS 48-1 (West Supp. 2013)).

front of the residence. Flynn entered an enclosed porch and proceeded into the first-floor kitchen. Flynn could see the first-floor living room, where there were “three dogs and they were pretty much exhausted at the time, but they were occasionally biting each other,” biting each other on the head, neck, and hindquarters, “not in a playful manner,” and “drawing blood.”

¶ 5 Officers corralled the three dogs into a bedroom at the front of the first floor. The dogs appeared to be pit bulls. Two were brown and the third was a mix of brown and white. Two were males and one was female. The dogs were covered in bite marks and were bleeding to the point that Flynn made the decision to euthanize them. Flynn found blood on the floor of the kitchen, along with two cellular phones. There was a large amount of cash in the living room. There were medical supplies in a first-floor bedroom, including syringes and antibiotics. A pistol was also recovered from the first-floor porch.

¶ 6 Flynn went upstairs to the apartment directly above the area where he had discovered the dogs. Officers Tottas and Warren were detaining eight men. Defendant and codefendants, Bullock and Wyatt, identified in court by Flynn, were among those men. Flynn arrested the three codefendants and read them their *Miranda* warnings. Bullock told Flynn and Tottas that he was the owner of one of the pit bulls involved in dog fighting downstairs, a brown female named Jackie. Bullock’s description matched one of the dogs Flynn found on the first floor. Officer Christopher entered the room during Bullock’s interview. Flynn sent Christopher to recover a dog from the back of a car. Bullock told the officers he had a second dog, Jasmine, locked in the trunk of his car. Wyatt told Flynn and Tottas that two of the pit bulls on the first floor were his, a female pit bull named Gucci and white and a brown male pit bull named Franchella. Flynn had

seen a brown and white pit bull on the first floor. Defendant told Flynn and Tottas that “he was taking bets and refereeing the dog fights.”

¶ 7 Flynn testified that the owners of the two phones in the kitchen could not be located. The officer who Flynn saw recover the phones from the kitchen showed him two videos recorded on each of the phones.² One video showed two dogs fighting, the same dogs Flynn discovered when he entered the house. The video showed the dogs were fighting in the first-floor kitchen Flynn had entered when he arrived at the residence. Portions of the video showed Wyatt with the two fighting dogs. There was a second video that showed the same two dogs and a third dog fighting in the same kitchen. All three dogs were the same dogs Flynn discovered in the first-floor apartment earlier that night. The video showed blood and “a large amount of” cash on the floor, which was consistent with the condition of the kitchen when Flynn initially arrived on scene.

¶ 8 Officer Warren testified that, shortly after 8 p.m. on April 18, 2010, he and his partner responded to a call at 1057 North Kilbourn Avenue. Arriving on scene, Warren exited his vehicle and went to the front of the building. Several people fled the first-floor apartment up to the second floor. Defendant, Bullock, and Wyatt, identified at trial, were among them. Warren detained defendant, Bullock, and Wyatt and turned them over to Flynn.

¶ 9 Officer Christopher testified that, shortly after 8 p.m. on April 18, 2010, she and her partner arrived at 1057 North Kilbourn Avenue. She heard crying and scratching coming from the trunk of a vehicle in front of the house. Christopher entered the house, obtained the keys to

² Both counsel for defendant and counsel for codefendants filed a pretrial motion to suppress evidence discovered on the two unclaimed phones in the kitchen, as well as two phones in defendant’s possession. The trial court denied the motion as to the two unclaimed phones discovered in the kitchen. It granted the motion to suppress information discovered on defendant’s phones as to defendant.

the vehicle's trunk and released a tan dog, a pit bull or Staffordshire terrier, from inside the trunk. Christopher did not recall seeing any sign the dog had participated in a dog fight.

¶ 10 Bullock testified that, around 7 p.m. on April 18, 2010, he was walking to the bus stop after work when he was arrested by police officers a block or two away from 1057 North Kilborn Avenue. Bullock stated he did not give a statement to any officers, was never present at 1057 North Kilbourn Avenue that day, did not know either defendant or Wyatt, and did not own a dog, a cell phone, or a vehicle.

¶ 11 Wyatt testified that, on April 18, 2010, he was at 1057 North Kilbourn Avenue in the second-floor apartment, where he lived with his girlfriend, sleeping on the couch when the police kicked in the door. He did not own a dog and was not aware of any dog fighting on the first floor. He denied speaking to Officer Flynn and stated he was not the man visible in the video footage.

¶ 12 Defendant testified that, on April 18, 2010, he was at his home, 4432 West Rice Street, a few blocks away from 1057 North Kilbourn Avenue. Around 7 or 8 p.m., defendant walked to the store when two or three men came from behind and ran past him. Two officers arrived in their squad car, searched defendant, and put him in their vehicle. The officers asked defendant his name but were silent otherwise. Defendant asked why he was being put in the squad car and explained he lived in the area. The police drove him to 1057 North Kilbourn Avenue and placed him in a paddy wagon parked there. There were other people in the wagon, but he did not remember seeing Bullock or Wyatt. Defendant testified he was never inside the building at 1057 North Kilbourn, never made any statements to the police, and had not been involved in any dog fight.

¶ 13 The trial court found defendant guilty on both counts. It merged the attending a dog fight charge (720 ILCS 5/26-5(g) (West 2010)) into the promoting charge (720 ILCS 5/26-5(b) (West 2010)) and sentenced defendant to 2 years' imprisonment. Defendant timely appealed.

¶ 14 On appeal, defendant concedes that he was present at the dog fight and thus guilty of attending a dog fight (720 ILCS 5/26-5(g) (West 2010)). He argues, however, that there was insufficient evidence to prove him guilty beyond a reasonable doubt of assisting in promoting the presentation of a dog fight (720 ILCS 5/26-5(b) (West 2010)). Specifically, he argues that Officer Flynn's testimony as to defendant's extrajudicial admissions of refereeing and taking wagers, the only evidence that he was not merely present at the fight, was unmemorialized and contradicted by the video evidence. The State responds that defendant's admission was sufficiently corroborated by other evidence.

¶ 15 Where, as here, a defendant challenges the sufficiency of the evidence to sustain a guilty verdict, the relevant inquiry is 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. Cardamone*, 232 Ill. 2d 504, 511 (2009). A reviewing court may not overturn a conviction based on insufficient evidence unless the proof is so unreasonable, improbable or unsatisfactory that a reasonable doubt regarding defendant's guilt exists. *People v. Wheeler*, 226 Ill. 2d 92, 115 (2007); *People v. Smith*, 2015 IL App (1st) 132176, ¶ 24.

¶ 16 When proving each element of a criminal offense beyond a reasonable doubt, the State must prove beyond a reasonable doubt (1) a crime occurred, known as the *corpus delicti*; and (2) the crime was committed by the defendant. *People v. Sargent*, 239 Ill. 2d 166, 183 (2010). A defendant's out-of-court admission alone cannot prove the *corpus delicti*. *People v. Lara*, 2012

IL 112370, ¶ 17; *Sargent*, 239 Ill. 2d at 183. A defendant's extrajudicial admissions must also be accompanied by “independent corroborating evidence.” *Lara*, 2012 IL 112370, ¶ 17. However, “[o]ur case law has consistently required far less independent evidence to corroborate a defendant's confession under the *corpus delicti* rule than to show guilt beyond a reasonable doubt.” *Id.* ¶ 45. The independent corroborating evidence need only *tend* to show the crime did occur. *Sargent*, 239 Ill. 2d at 183.

¶ 17 Here, defendant was convicted of assisting in the presentation of dog fighting (720 ILCS 5/26-5(b) (West 2010)), which is statutorily defined as follows:

“(b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.” 720 ILCS 5/26-5(b) (West 2010).

¶ 18 Based on the evidence presented at trial, defendant was proven guilty of assisting in the presentation of dog fighting beyond a reasonable doubt, as his admission to Flynn that he took wagers and refereed dog fights was corroborated by evidence of dog fighting and betting on the date in question. The evidence established that defendant was found at 1057 North Kilbourn Avenue, having run to an upper floor in the building from the first floor when Bullock alerted everyone that the police had arrived. Police found evidence of dog fighting on the first floor, including blood and money on the floor, medical supplies in a bedroom, and three bloody pit bulls so badly injured that they had to be euthanized. Further, two cell-phone recordings found in the apartment showed the three pit bulls fighting in the same first-floor apartment from which

Officer Warren had seen defendant running upstairs. Wyatt, who had been detained on the second floor with defendant, was visible in one of the videos. This evidence of defendant's presence at a dog fight and of cash betting are sufficient "independent corroborating evidence" of defendant's admission to Flynn that he refereed and took wagers on the dog fights.

¶ 19 To the extent defendant asserts his statement that he was refereeing and taking bets was contradicted by the video showing Wyatt refereeing a dog fight, we find no such contradiction. The fact that the video shows Wyatt interacting with the dogs involved in the dog fighting does not mean that defendant was not involved in the dog fighting, whether as a referee or taker of wagers. A reasonable trier of fact could conclude beyond a reasonable doubt that defendant had refereed and taken wagers on dog fights that day but that his participation in the dog fighting was not captured on video.

¶ 20 Viewing the evidence in the light most favorable to the prosecution, as we must, we find the State presented sufficient evidence from which a rational trier of fact could have found defendant guilty of assisting in the presentation of dog fighting (720 ILCS 5/26-5(b) (West 2010)).

¶ 21 For the reasons stated above, we affirm the judgment of the circuit court.

¶ 22 Affirmed.