

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

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	
)	Appeal from the Circuit Court
Plaintiff-Appellee,)	of Cook County.
)	
v.)	No. 14 MC4 004180
)	
TINONDA BRADSHAW,)	The Honorable
)	Gregory Paul Vasquez,
Defendant-Appellant.)	Judge Presiding.
)	

PRESIDING JUSTICE GORDON delivered the judgment of the court.
Justices Lampkin and Reyes concurred in the judgment.

ORDER

¶ 1 *Held:* Where the evidence at trial was sufficient to prove beyond a reasonable doubt that defendant resisted a police officer, her conviction is affirmed.

¶ 2 Defendant Tinonda Bradshaw was arrested for the misdemeanor offenses of assault and resisting a police officer based on an incident committed on July 29, 2014. Following a bench trial, defendant was found guilty of one count of resisting a police officer and not guilty of assault. Defendant was sentenced to 12 months conditional discharge and imposed a fine of \$300 and court costs of \$254, which could be satisfied by 15 days in the Sheriff's

Work Alternative Program (SWAP). On this direct appeal, defendant argues that the State failed to prove her guilty of resisting or obstructing arrest beyond a reasonable doubt. For the following reasons, we find that there was sufficient evidence to support her resisting arrest conviction.

¶ 3

BACKGROUND

¶ 4

Defendant Tinonda Bradshaw was arrested for the misdemeanor offenses of assault and resisting a police officer based on an incident that occurred on July 29, 2014. At trial,

Tiajuana Garrett, a cashier located at a Circle K gas station in Berwyn, Illinois, testified that on the morning of July 29, 2014, defendant entered the gas station seeking to purchase liquor. The gas station normally sells liquor, but their liquor license was suspended for 24 hours. As a result, the door to the cooler containing the beer was chained and locked. Garrett observed defendant enter the store and continuously pull on the doors of the coolers. Garrett approached defendant and explained that the gas station was unable to sell liquor that day. Defendant became upset and yelled that she wanted beer and that Garrett could not refuse to sell beer to her. Defendant walked around Garrett and continued to pull on the doors to the cooler. As Garrett walked back towards the counter to talk to the store manager about the situation, defendant followed closely behind her. The manager explained to defendant that they could not sell beer, but defendant continued to yell and the manager told her that she should leave the premises. Garrett testified that defendant left the gas station, used her cell phone, and proceeded to enter the Walgreens store across the street.

¶ 5

Officer Perez, a police officer with the Berwyn police department, testified that she arrived at the Circle K gas station at approximately 9 a.m. in response to a 911 call from defendant complaining that defendant was unable to purchase alcohol. Officer Perez spoke

to Garrett, who informed her that defendant became “enraged” and “aggressive” after Garrett told her that the store was unable to sell her any alcohol. After Garrett gave them a description of defendant and stated that the person who assaulted her had gone across the street, Officer Perez and Officer Buchmeier, who had been dispatched separately, went to Walgreens. When the officers entered Walgreens, defendant approached them and told them that she no longer needed the police. Officer Perez then asked why she called 911 and asked defendant to provide identification. Defendant refused to provide identification and “became angry and started yelling, stating that she didn’t need to answer our questions,” and also stated that “[s]he knows the law.” Officer Perez testified that she ordered defendant to put her hands behind her back because she was under arrest for assaulting an employee at the Circle K gas station. Defendant refused, and Officer Perez told her again to turn around and put her hands behind her back, but defendant refused again and “clenched her fists and started to pull her arms upward.” Officer Perez approached defendant from the left but was unable to handcuff her, while Officer Buchmeier approached from the right to try to handcuff defendant’s right arm. Defendant was yelling “no” and that she was “not under arrest.” To secure the arrest, Officer Perez delivered two knee strikes to the “common femoral area.” Once she was handcuffed, defendant refused to leave the store, and continued to yell, “I am not under arrest” as she was escorted out of the Walgreens.

¶ 6 The State offered a security video recording into evidence of a part of these events and asked Officer Perez to narrate what was happening on the video. Officer Perez testified that the video depicted both herself and Officer Buchmeier attempting to handcuff defendant. She further testified that the video showed that after she delivered the first knee strike,

defendant's arms were "still behind her back, not in the way they should be." She also testified that defendant was "trying to pull them up and her fists were still clenched."

¶ 7 On cross-examination, defendant's counsel questioned Officer Perez regarding the sequence of events. Officer Perez testified that she told defendant that she was under arrest after she refused to provide identification. However, Officer Perez testified that defendant was under arrest for assaulting the Circle K employee, not for refusing to show her identification. Counsel then asked if Officer Perez had witnessed any assault, which she testified that she had not. The trial court then interrupted and asked Officer Perez if she usually witnessed the offenses that victims complain of, and she said she did not. Officer Perez acknowledged that defendant never made any movements toward either of the officers until they put their hands on her.

¶ 8 After the testimony of the State's witnesses, the defense made a motion for a directed finding. The trial court granted defendant's motion for a directed finding on the assault charge, finding that defendant did not take any action that could qualify as an assault, but denied defendant's motion for a directed finding on the resisting arrest charge. The defense did not present any evidence and, after brief arguments, the trial court found defendant guilty of resisting arrest. The court sentenced defendant to 12 months conditional discharge and imposed a fine of \$300 and court costs of \$254. The fine and court costs could be satisfied by 15 days of SWAP. No motion for new trial or to reconsider sentence was filed, and this appeal follows.

¶ 9 ANALYSIS

¶ 10 On appeal, defendant argues that the State failed to prove her guilty of resisting or obstructing arrest beyond a reasonable doubt because the evidence showed that she did not

offer any resistance and nothing that she did obstructed the officers in the performance of their duties.

¶ 11

I. Standard of Review

¶ 12

The critical inquiry on review of a sufficiency of the evidence claim is whether, after reviewing all of the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Cunningham*, 212 Ill. 2d 274, 278 (2004). Once defendant has been found guilty of the crime charged, the fact finder's role as weigher of the evidence is preserved through a legal conclusion that, upon judicial review, all of the evidence is to be considered in the light most favorable to the prosecution. *People v. Migliore*, 170 Ill. App. 3d 581, 592 (1988). "It is the trier of fact's responsibility to determine the witnesses' credibility and the weight given to their testimony, to resolve conflicts of evidence, and to draw reasonable inferences from the evidence; we will not substitute our judgment for that of the trier of fact on these matters." *People v. Ortiz*, 196 Ill. 2d 236, 259 (2001). We will not set aside a conviction unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt as to the defendant's guilt. *People v. Cox*, 195 Ill. 2d 378, 387 (2001).

¶ 13

II. Elements of Offense

¶ 14

To sustain a conviction for resisting or obstructing a peace officer, the State must prove that the defendant (1) knowingly resisted or obstructed the performance (2) by one known to the defendant to be a peace officer (3) of any authorized act within his official capacity. 720 ILCS 5/31-1(a) (West 2012).

¶ 15

In the case at bar, there is no dispute that the second and third elements were satisfied. Defendant does not dispute that she knew Officer Perez and Officer Buchmeier were peace

officers engaged in their official duties when they arrested her. Additionally, there is no dispute as to whether the officers were performing an authorized act within their official capacity, as they were making an arrest. An arrest is an authorized act because “[a] police officer may arrest a person when he has reasonable grounds to believe that the person has committed a criminal offense.” *People v. Carroll*, 133 Ill. App. 2d 78, 79 (1971). “The test for whether the officer had reasonable grounds for his belief is whether a reasonable and prudent man having the knowledge which the officer had would believe the person arrested guilty of an offense.” *Carroll*, 133 Ill. App. 2d at 79 (citing *People v. Asey*, 85 Ill.App.2d 210, 219 (1967)). Based on the testimony from Garrett concerning defendant’s actions at the gas station and testimony from Officer Perez saying that she first spoke with Garrett about the incident and received a description of defendant prior to finding defendant at Walgreens, we conclude that Officer Perez and Officer Buchmeier could have reasonably believed defendant to be guilty of assault. Thus, the only issue in this case is whether defendant resisted or obstructed the arrest.

¶ 16 In establishing the first element of “knowingly resisting or obstructing arrest,” it is insufficient for the State to prove the defendant merely argued with a police officer. *People v. Raby*, 40 Ill. 2d 392, 399 (1968). Rather, the words “resist” and “obstruct” involve “‘some physical act which imposes an obstacle which may impede, hinder, interrupt, prevent, or delay the performance of the officer’s duties, such as going limp, forcefully resisting arrest, or physically aiding a third party to avoid arrest.’ ” *Raby*, 40 Ill. 2d at 399 (quoting *Landry v. Daley*, 280 F. Supp. 938, 959 (N.D. Ill. 1968)). Additionally, resistance “implies some type of physical exertion in relation to the officer’s actions.” *People v. Baskerville*, 2012 IL 111056, ¶ 25.

¶ 17 Officer Perez’s testimony establishes that after defendant refused to physically place her hands behind her back twice, the officers were unable to handcuff her and she “clenched her fists and started to pull her arms upward.” Officer Perez then approached from the left and was not able to handcuff her. It took two police officers to be able to secure defendant to effectuate the arrest as well as two knee strikes to the common femoral area from Officer Perez. Once she was handcuffed, defendant refused the officers’ instructions to leave the store and the officers were forced to escort her out. Under the supreme court’s definition of resistance in *Baskerville*, defendant’s actions clearly constitute a physical exertion in response to the police officer’s actions. In addition the video, which we have independently reviewed, corroborates Officer Perez’s testimony.

¶ 18 We find unpersuasive defendant’s claim that *Baskerville* is analogous to the present case because she did not impede the officers’ performance of an authorized act, as it only took 30 seconds to arrest her. In *Baskerville*, a police officer observed the defendant’s wife driving, knew from previous dealings with her that her license was suspended, and followed her to her home. *Baskerville*, 2012 IL 111056, ¶¶ 4-6. The defendant’s wife exited her vehicle and went into her home instead of returning to her vehicle as requested by the officer. *Baskerville*, 2012 IL 111056, ¶ 6. When the police asked the defendant about his wife’s whereabouts, initially, the defendant told the police officer that his wife was not home. *Baskerville*, 2012 IL 111056, ¶ 7. However, the defendant then went inside his house and came out and offered to let the police officer search his house for his wife, which the officer declined. *Baskerville*, 2012 IL 111056, ¶ 7. The *Baskerville* court held that even though the man lied about where his wife was when asked by a police officer, his statement did not constitute obstruction because his false statement did not “ ‘actually impede an act the officer

was authorized to perform.’ ” *Baskerville*, 2012 IL 111056, ¶ 35 (quoting *People v. Hilgenberg*, 223 Ill. App. 3d 286, 290 (1991)). By contrast, the present case concerns a woman physically resisting her own arrest, and we are asked to determine whether her actions rose to the level of some kind of physical exertion in relation to the officer’s actions. Therefore, *Baskerville*’s holding is not instructive in the present case.

¶ 19 However, *Baskerville* does explain the difference between “resisting” and “obstructing” arrest in the statute. *Baskerville* states that the court has an “obligation to avoid a construction which renders a part of the statute superfluous or redundant, and instead presume that each part of the statute has meaning.” *Baskerville*, 2012 IL 111056, ¶ 25 (citing *People v. Jones*, 223 Ill. 2d 569, 594 (2006)). The statute at issue prohibits two separate actions: “resisting” and “obstruction.” *Baskerville*, 2012 IL 111056, ¶ 25. As stated above, “ ‘resist’ implies some type of physical exertion in relation to the officer’s actions.” *Baskerville*, 2012 IL 111056, ¶ 25. Further, “ ‘obstruct’ encompasses physical conduct that literally creates an obstacle, as well as conduct the effect of which impedes or hinders progress.” *Baskerville*, 2012 IL 111056, ¶ 19. Therefore, while defendant in the case at bar contends that she did not “obstruct” the police officers from performing their authorized duties as the court held in *Baskerville*, her actions are consistent with the *Baskerville* court’s definition of resistance.

¶ 20 We also find unpersuasive defendant’s claim that her actions were merely instinctual and involuntary reflexes to the officers putting their hands on her, and that those actions were so *de minimis* that they do not constitute resisting arrest. It is established that “acts that result from a reflex *** are also considered involuntary acts for which the defendant cannot be held accountable.” *People v. Martino*, 2012 IL App (2d) 101244, ¶ 13. However, Officer Perez’s

testimony indicated that defendant clenched her fists, pulled her arms up, and refused to leave the Walgreens. Officer Perez also testified that she delivered two knee strikes to the common femoral area to carry out the arrest. Given the great deference we owe the trial court with regard to credibility of witnesses and resolution of conflicts of evidence, we cannot say that it is so improbable that defendant's actions were in fact voluntary so as to create reasonable doubt.

¶ 21 Finally, defendant claims that she only resisted verbally when she said "no" and "I'm not under arrest." While merely arguing with a police officer is insufficient proof for the State to prove that defendant resisted arrest, it is irrelevant because she also physically resisted the arrest. Because we concluded above that, in light of Officer Perez's testimony regarding defendant's physical resistance, there was sufficient evidence to convict defendant of resisting arrest, we must reject defendant's claim that she merely argued with the officers.

¶ 22 CONCLUSION

¶ 23 On appeal, defendant argues that the State failed to prove her guilty of resisting or obstructing arrest beyond a reasonable doubt because the evidence shows that she did not offer any resistance and nothing that she did obstructed the officers in the performance of their duties.

¶ 24 For the foregoing reasons, we find that there was sufficient evidence to support defendant's resisting arrest conviction.

¶ 25 Affirmed.