2017 IL App (1st) 161561-U

No. 1-16-1561

Order filed September 1, 2017

Sixth Division

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. 13 C5 50522
	)	
JORIAN REY,	)	Honorable
	)	Kerry M. Kennedy,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

¶ 1 ***Held:*** Where defendant did not actually interfere with or materially impede a police investigation, the finding that he was "not not guilty" of obstructing justice is reversed.

¶ 2 Defendant Jorian Rey was found unfit to stand trial on a charge of obstructing justice. At a subsequent discharge hearing he was found "not not guilty" and remanded to the Department of Human Services. Defendant appeals, arguing that the "not not guilty" finding must be reversed due to insufficient evidence or, in the alternative, that the charging instrument must be dismissed as fatally defective. For the reasons that follow, we reverse.

¶ 3 Defendant was arrested on June 25, 2013, and subsequently charged by information with one count of obstructing justice. The information alleged that "with intent to prevent the apprehension or obstruct the prosecution or defense of Jorian Rey, he knowingly furnished false information, to wit: provided the name Jarn Jody Reynolds, in violation of Chapter 720 Act 5 Section 31-4(a) of the Illinois Compiled Statutes 1992 as amended."

¶ 4 On his initial court date in August 2013, defendant told the court his name was John Reynolds and made references to witchcraft, sorcery, devil worship, and a "black book" he said he knew the trial court had in its chambers. The trial court noted defense counsel had asked to have defendant evaluated for fitness for trial and ordered a behavioral clinical examination. Over the course of the next two years and nine months, defendant appeared in court at least 27 times. During that time, evidence was submitted that various doctors had opined defendant was alternatively fit and unfit for trial. Also during that time, defendant told the court his name was John Rydel, John Ridels, Jr., Jorian Rey, and Jarn Reynolds; made numerous references to the Illuminati, the devil, and the antichrist; and made several lewd suggestions and violent and profane overtures to the court, his attorney, and other people in the courtroom.

¶ 5 On May 4, 2016, the trial court found defendant unfit to stand trial, found that there was not a substantial probability that defendant would achieve fitness for trial within the statutory period of one year, and proceeded to a discharge hearing.

¶ 6 At the hearing, Evergreen Park police officer Abel Salazar testified that on the date in question, he was in a drugstore parking lot, randomly running vehicle registrations through the police database, when one of the cars came up as having been reported stolen. He waited until the car started moving and then curbed it. In court, Salazar identified defendant as the car's driver.

¶ 7 Salazar testified that when defendant was unable to produce a driver's license, he asked for a name and date of birth and asked about the car. Defendant stated that his name was Jarn Jody Reynolds, that his date of birth was October 16, 1971, and that the car belonged to his passenger's cousin. Salazar ran the name through the law enforcement database multiple times but found no records. Accordingly, he asked defendant if he "might have been under any other name or if he had ever been arrested" so he could find him through a criminal history check. Defendant repeated that his name was Jarn Jody Reynolds, gave the same date of birth, and said he had never been arrested. Because the car was stolen, Salazar placed defendant into custody and brought him to the police station.

¶ 8 At the police station, Salazar gave defendant *Miranda* warnings and defendant signed a *Miranda* waiver with the name Jarn Jody Reynolds. Salazar asked defendant for his name several more times, but defendant continued to say that it was Jarn Jody Reynolds. During the inventory process, Salazar noticed that the sole of one of defendant's shoes was glued on, rather than stitched. He ripped apart the glue and found a state identification card from Arkansas and a social security card. The Arkansas identification card bore defendant's picture, and both cards listed the name Jorian Rey and a birth date of October 16, 1971. When Salazar asked defendant about the cards, defendant said that he used to be Jorian Rey, that Jorian Rey got into a lot of trouble with the law, that the devil was after Jorian Rey, and that he was not Jorian Rey anymore.

¶ 9 On cross-examination, Salazar acknowledged that as part of the arrest, he filled out a health medical screening report. In the report, he indicated defendant's physical condition as "dazed" and noted that defendant was taking "psych medication" and being treated at Northwestern Hospital. As to defendant's mental status/state of consciousness, Salazar circled "silly/happy." Salazar also listed "bipolar" as a disability. When asked what reason defendant

gave for using the name Jarn Jody Reynolds, Salazar stated that defendant told him something about the devil and the Illuminati. On redirect, Salazar testified that he later learned defendant had 51 prior arrests and a 24-year criminal history. On re-cross, Salazar agreed that he would have arrested defendant for being in a stolen car no matter what his name was.

¶ 10 Following closing arguments, the trial court found defendant "not not guilty" of obstructing justice. The court thereafter remanded defendant to the Department of Human Services.

¶ 11 On appeal, defendant contends that the finding of "not not guilty" must be reversed because there was insufficient evidence that he (1) furnished false information when he told Salazar that his name was Jarn Jody Reynolds; (2) intended to prevent his apprehension or obstruct his prosecution by providing that name; or (3) materially impeded Salazar's investigation. In the alternative, defendant contends that the information charging him with obstructing justice must be dismissed because it does not reference any particular impending apprehension or prosecution for an identifiable or potentially chargeable offense that he allegedly obstructed by furnishing false information.

¶ 12 The State concedes that there was insufficient evidence presentenced at the discharge hearing to prove that defendant materially impeded Salazar's investigation. We accept the State's concession.

¶ 13 The purpose of a discharge hearing is to determine whether there is sufficient evidence to prove a defendant guilty of a charged crime. *People v. Williams*, 312 Ill. App. 3d 232, 234 (2000). If the evidence presented fails to establish the defendant's guilt beyond a reasonable doubt, the trial court must acquit. *Id*. (citing 725 ILCS 5/104-25(a)-(b) (West 1998)). While a court's "not not guilty" determination at a discharge hearing does not constitute a technical

determination of guilt, the standard of proof is the same as that required for a criminal conviction. *Id.* Accordingly, the relevant inquiry on review 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. *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979).

¶ 14 As charged here, a person commits the offense of obstructing justice when, with the intent to prevent the apprehension or obstruct the prosecution or defense of any person, he knowingly furnishes false information. 720 ILCS 5/31-4(a)(1) (West 2012). Our supreme court has held that in enacting section 31-4, the legislature intended to criminalize behavior that "*actually* interferes with the administration of justice, *i.e.*, that 'obstruct[s the] prosecution or defense of any person.' " (Emphasis in original.) *People v. Comage*, 241 Ill. 2d 139, 149 (2011) (quoting 720 ILCS 5/31-4(a)(1) (West 2010)). As such, to constitute obstructing justice, the defendant's behavior must "materially impede[] the police officers' investigation." *Id*. at 150.

¶ 15 *People v. Taylor*, 2012 IL App (2d) 110222, is informative here. In *Taylor*, a police officer saw the defendant, Donnell Taylor, crossing a street, thought he recognized Taylor from previous encounters, and confirmed through the state computer system that Taylor was wanted on an active warrant. *Id*. ¶ 3. When the officer approached Taylor and asked for identification, Taylor gave a false name and date of birth. *Id*. ¶ 4. The officer told Taylor there was no one by the given name in the system and that he was going to be arrested for giving false information. *Id*. After a few minutes of conversation, the officer said, "Hey, Donnell," and Taylor looked up and said, "Yeah?" *Id*. ¶ 4. The officer then arrested Taylor. *Id*. According to the officer, the entire encounter took under 10 minutes. *Id*. When Taylor was searched at the police station,

officers found identification with his correct name. *Id*. Taylor was convicted of obstruction of justice for furnishing false information and denying that he had identification. *Id*. ¶ 5.

¶ 16 On appeal, the appellate court reversed Taylor's conviction, finding that Taylor's false statements did not constitute obstructing justice where they did not actually interfere with or materially impede the police investigation. *Id*. ¶¶ 17, 21. The court noted that the entire encounter took no more than a few minutes, that the officer arrested Taylor before he ever saw Taylor's state identification card, and that the officer's action of checking the computer database did not significantly delay Taylor's arrest. *Id*. ¶ 17. The court also observed that Taylor's brief lies did not pose any substantial risk that the officer would mistakenly allow Taylor to go free. *Id*. ¶ 18.

¶ 17 Here, we find that defendant's giving of a name that did not match his identification did not actually interfere with or materially impede the police investigation. As in *Taylor*, the encounter between defendant and Officer Salazar was not lengthy, defendant was arrested before the police knew he had identification listing a name other than the one he gave, and there is no evidence that Salazar's computer database checks caused a significant delay in effectuating arrest. Moreover, Salazar testified that he was going to arrest defendant for being in a stolen car no matter what his name was. This testimony, by itself, indicates that defendant's furnishing of the name Jarn Jody Reynolds did not impede the officer's investigation. In light of these circumstances, we agree with the parties that the State did not prove the essential elements of obstructing justice beyond a reasonable doubt. As such, we reverse the trial court's finding of "not not guilty."

¶ 18 Given our disposition, we need not address defendant's other arguments challenging the sufficiency of the evidence or his contention that the charging instrument was fatally defective.

¶ 19 For the reasons explained above, the judgment of the circuit court is reversed.

¶ 20 Reversed.