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2017 IL App (3d) 160501-U

Order filed December 13, 2017

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2017

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-16-0501
EDUARDO BEDOLLA,	)	Circuit No. 16-DT-421
Defendant-Appellant.	)	Honorable Kenneth L. Zelazo, Judge, Presiding.

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PRESIDING JUSTICE HOLDRIDGE delivered the judgment of the court. Justices Lytton and McDade concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The circuit court's denial of the defendant's petition to rescind the statutory summary revocation of his driver's license was not against the manifest weight of the evidence where the traffic accident report indicated that the injured party suffered from a Type A injury as a result of the motor vehicle accident.

¶ 2 The defendant, Eduardo Bedolla, appeals from the circuit court's denial of his petition to rescind the statutory summary revocation of his driver's license. On appeal, the defendant argues that the court's decision was against the manifest weight of the evidence because the traffic accident report did not indicate that the injured party had a Type A injury.

FACTS

¶ 3

¶ 4 On March 27, 2016, the defendant received a traffic citation from Officer Robert Stanko of the Will County sheriff's police for driving under the influence of alcohol (625 ILCS 5/11-501(a)(2) (West 2016)). Officer Stanko's amended sworn report indicated that the defendant refused to submit to or failed to complete chemical test(s) and, as a result, his driving privileges would be revoked for a minimum of 12 months because he was involved in a motor vehicle accident that caused a Type A personal injury or death to another.

¶ 5

On May 16, 2016, the defendant filed a petition to rescind statutory summary suspension/revocation, wherein he argued that (1) he was not properly placed under arrest; (2) the arresting officer did not have reasonable grounds to believe that he was driving or in actual physical control of a motor vehicle upon a highway under the influence of alcohol, other drugs, or a combination thereof; (3) he was not properly advised of the consequences of his refusal to submit to a breathalyzer examination or other test; (4) he was not properly advised of the consequences of his submitting to a breathalyzer examination or other test; (5) he did not refuse to submit to a breathalyzer examination or other test; (6) any test or tests administered did not disclose an alcohol concentration of 0.08 nor any amount of a drug; and (7) he was not involved in a motor vehicle accident that caused a Type A injury or death to another. (We note that it appears the defendant filed a petition to rescind statutory suspension/revocation because Officer Stanko's initial sworn report indicated that the defendant's driver's license would be both suspended and revoked, but his amended report only proceeded with the revocation.)

¶ 6

On July 27, 2016, the court held a hearing on the defendant's petition. Defense counsel withdrew the petition to rescind statutory summary suspension and only proceeded on the revocation for a Type A injury. The following evidence was presented at the hearing.

¶ 7 Officer Stanko testified that on March 27, 2016, he responded to a vehicle accident. When he arrived at the scene, he observed the defendant and two witnesses standing next to him. He also observed two female victims, who remained in their vehicle. Officer Stanko briefly saw the female driver of the vehicle, Margaret Samars, and he did not observe that she was bleeding or had any distorted extremities. He then attended to the defendant. Officer Stanko was later told that the two female victims were taken to the hospital by an ambulance. He spoke to Samars a few days later and she reported that she had pain along the entire left side of her body and right left hand and her 11-year old granddaughter had a bruise on her right leg below the knee.

¶ 8 Officer Stanko testified that, in his traffic accident report, the letter “C” appeared in a box titled “Injury” next to Samars’s information. When asked whether this meant Samars suffered from a Type C injury, he stated that he did not know what the “C” meant because the form was generated after he submitted his report and he did not see this form until he was in court.

¶ 9 Samars testified that on March 27, 2016, her vehicle was struck by the defendant’s vehicle. She stated that her vehicle was stopped at a red light and when it turned green, she waited a few seconds and proceeded through the light. As she was passing through the intersection, the left side of her vehicle was struck, causing it to spin around until it faced the opposite direction. Both of the air bags deployed and she had difficulty breathing. She immediately felt pain on the entire left side of her body and her wrists and noticed a large bump on her wrist. She testified that because of these injuries, she was unable to get out of the car and walk away from the accident. Neither Samars nor her granddaughter was bleeding at the scene or at the hospital. Samars stated that paramedics removed her from her vehicle by sliding her body onto a board. Samars and her granddaughter were transferred to the hospital by an ambulance.

¶ 10 Samars had a CT scan performed at the hospital and she was informed that she would be

sore for a couple of months. Samars was brought home by her sister and brother-in-law, who assisted her from a wheelchair into their vehicle. When Samars was home, her husband assisted her when she walked. Two days later, she woke up at 12:30 a.m. and could not breathe. She went to the doctor's office and an x-ray revealed that she had a fractured rib. She was also diagnosed with tennis elbow, and at the time of her testimony, she was still being treated for her elbow and discussed the possibility of surgery.

¶ 11 After hearing the evidence and reviewing the exhibits, the court found that the victim's injuries were Type A and denied the petition. The court elaborated that it understood that when a person is believed to have a serious injury or is suspected of having a serious injury, and for that person's wellbeing, he or she is removed from the scene of the accident, and resulting medical treatment finds less severe injuries than expected, the injury is not intended to be excluded from a Type A injury. The defendant appeals.

¶ 12 ANALYSIS

¶ 13 Section 11-501 of the Illinois Vehicle Code prohibits motorists from driving under the influence of alcohol or other drugs. 625 ILCS 5/11-501 (West 2016). Any person who is in violation of section 11-501 is deemed to have given consent to chemical test or tests. 625 ILCS 5/11-501.1(a) (West 2016). When a motorist is involved in a motor vehicle crash that caused personal injury or death to another, refusal to submit to the test will result in the statutory summary revocation of the motorist's driver's license. 625 ILCS 5/11-501.1(c) (West 2016).

¶ 14 A motorist may, by written petition filed within 90 days after service of the revocation notice, request a hearing to have the revocation rescinded. 625 ILCS 5/2-118.1(b) (West 2016). The filing of a petition to rescind a statutory summary revocation initiates a civil action separate from any related criminal prosecution. See *People v. Acevedo*, 2017 IL App (3d) 150750, ¶ 10.

The hearing on the petition proceeds in the same manner as other civil proceedings and the rules of civil procedure generally apply. *People v. McClure*, 218 Ill. 2d 375, 383 (2006); see also 625 ILCS 5/2-118.1(b) (West 2016).

¶ 15 During the hearing on the petition, the motorist bears the burden of proof to establish a *prima facie* case for rescission. *People v. Wear*, 229 Ill. 2d 545, 559-60 (2008). The burden then shifts to the State to present evidence justifying the revocation. *People v. Rozela*, 345 Ill. App. 3d 217, 222 (2003). The circuit court is charged with assessing the credibility of the witnesses and deciding the weight to be given to their testimony. *Id.* A court’s denial of a petition to rescind a statutory summary revocation will not be reversed unless it is against the manifest weight of the evidence. *People v. Smith*, 172 Ill. 2d 289, 295 (1996). “A finding is against the manifest weight of the evidence where the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented.” (Internal quotation marks omitted.) *People v. Peterson*, 2017 IL 120331, ¶ 39.

¶ 16 On appeal, the defendant argues that the circuit court’s decision was against the manifest weight of the evidence because the traffic accident report failed to indicate that the accident caused a Type A injury or death to another.

¶ 17 Section 501.1(c) of the Illinois Vehicle Code provides that a motorist involved in a motor vehicle accident that caused personal injury or death to another must be warned that refusal to submit to a chemical test will result in the statutory summary revocation of his driver’s license. 625 ILCS 5/11-501.1(c) (West 2016). Section 501.1(i) defines “personal injury” as follows:

“[A]ny Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor’s office or a medical facility. A Type A injury includes severely bleeding

wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.” 625 ILCS 5/11-501.1(i) (West 2016).

¶ 18 The parties do not dispute that a Type A injury only includes severely bleeding wounds, distorted extremities, or an injury that requires the injured party to be carried from the scene. 625 ILCS 5/11-501.1(c) (West 2016); see *Fink v. Ryan*, 174 Ill. 2d 302, 310 (1996). The defendant concedes that Samars was carried from the scene of the accident but argues that her injuries as indicated in the traffic accident report did not *require* her to be carried (citing *Odom v. White*, 408 Ill. App. 3d 1113 (2011)). The State maintains that Samars’s injuries were Type A because her injuries required her to be carried from the scene of the accident, also relying on *Odom*.

¶ 19 In *Odom*, the Fifth District consolidated two cases on appeal from administrative review from the circuit court. *Id.* at 1114. Both appellants were drivers in motor vehicle accidents involving personal injury to individuals who were transported from the scene by an ambulance. *Id.* On appeal, both appellants argued that the accidents did not involve Type A injuries and their petitions to rescind should have been granted. *Id.*

¶ 20 Appellant Odom was involved in a single-vehicle accident where he lost control of his vehicle and it rested against an embankment, making it impossible for him to open the driver-side door. *Id.* at 1116. His OnStar system notified authorities and dispatched an ambulance. *Id.* When responding personnel arrived at the scene, Odom repeatedly told them that he was fine and not injured. *Id.* The responders directed him not to attempt to exit the vehicle until the ambulance arrived, in case he was injured. *Id.* Ambulance personnel removed him from the vehicle, placed him on a gurney, and transported him to the hospital. *Id.* Odom was not asked if he wanted or needed to go to the hospital in the ambulance and he did not know that he could refuse. *Id.* His only injury was a minor laceration on his head from a piece of glass, which hospital personnel

simply cleaned up. *Id.* He was released from the hospital that night and felt fine the next day. *Id.*

¶ 21 The responding deputy testified that he did not observe that Odom had any injuries other than blood from the superficial cut, but he noticed that he was moaning and groaning when ambulance personnel started to remove him from the vehicle. *Id.* at 1116-17. The deputy believed Odom's injuries required him to be carried from the scene because when the ambulance personnel placed a cervical collar on him, he was moaning and groaning and never told them that he was not injured. *Id.* at 1117. The deputy believed, that based on the way Odom was sitting in the vehicle and acting, he would not have been able to walk away from the accident and be okay. *Id.* Odom testified that he did not remember moaning or groaning at the scene of the accident or in the ambulance. *Id.* Additionally, neither the ambulance personnel nor the hospital personnel noted that he was moaning or groaning. *Id.* The traffic accident report indicated that Odom (1) had a Type B injury, (2) stated that he was not injured but could not get out of the vehicle, and (3) was transported to the hospital by ambulance. *Id.* The Secretary of State denied Odom's petition to rescind his suspension, finding that the fact he was carried from the scene by an ambulance was enough for the deputy to conclude that his injuries were Type A. *Id.*

¶ 22 Appellant Janes was driving a motor vehicle when his passenger was injured. *Id.* Janes stated that the passenger only had a small cut above his right eye, and without choice, he was taken by an ambulance to the hospital. *Id.* Janes recalled the passenger stating that he was okay and that he did not need to go to the hospital, but that he was forced to go. *Id.* Janes did not see any severely bleeding wounds or distorted extremities on the passenger and noted that he was able to walk. *Id.* The passenger was released from the hospital that night with a bandage. *Id.*

¶ 23 Two responding deputies testified. The first stated that he did not know the extent of the passenger's injuries and the ambulance was already on the scene when he arrived. *Id.* at 1118.

Also, his traffic accident report did not indicate any injuries as a result of the accident. *Id.* However, he did observe the passenger being loaded into the ambulance. *Id.* The second deputy testified that he observed the passenger receiving treatment on an ambulance cot, and the passenger was later transported from the scene in the ambulance. *Id.* He noted in his report that the passenger was injured and carried away from the scene, but did not refer to the injury as Type A. *Id.* The Secretary of State denied Janes's petition to rescind his suspension, finding that because his passenger was carried from the scene by an ambulance, he had a Type A injury. *Id.*

¶ 24 The Fifth District reversed, finding that the mere fact that an injured party was carried from the scene of the accident by ambulance was insufficient to establish a Type A injury. *Id.* at 1119. The court emphasized that the plain language of the statute not only mandates that the injured party be carried from the scene but that their injuries must *require* that they be carried from the scene. *Id.* The court discussed *Fink*, where our supreme court upheld the implied-consent statute as constitutional because it was narrowly drawn to apply only to drivers involved in the more serious accidents, where their expectation of privacy is diminished and the blood-alcohol test is minimally intrusive. *Id.* The court found that the Secretary of State's holdings in these two cases expanded the statute to include accidents of a less serious nature, which was against *Fink* and the plain language of the statute. *Id.*

¶ 25 The case at bar is distinguishable from *Odom*. First, Samars did not refuse to be transported by ambulance. In contrast, Samars immediately felt pain on the left side of her body and her wrists, and as a result, was unable to remove herself from her vehicle and walk away. Second, Samars was not seen walking around after the accident. In fact, she was not outside of her vehicle until she was removed by ambulance personnel, placed onto a board, and transported to the hospital. Third, Samars's injury, that she could not feel the entire left side of her body, was



far more serious than a superficial cut. Last, Samars testified that when she was leaving the hospital, she was brought to her sister's vehicle in a wheelchair and required assistance to get into the vehicle. Once she was home, she needed her husband's assistance to walk.

¶ 26 Based on *Odom*, we find that the traffic accident report in this case demonstrated that Samars had a Type A injury that required her to be carried from the scene. The traffic accident report stated that Samars (1) had pain on the entire left side of her body and in her right hand and (2) was transported from the scene of the accident to the hospital by an ambulance. Further, the report was corroborated by Samars's testimony, where she described her injury, how she was unable to get out of her vehicle and walk away from the accident, how she was removed from her vehicle when ambulance personnel placed her on a board and transported her to the ambulance, and how she needed assistance after leaving the hospital. We note that our holding does not disturb our supreme court's interpretation of Type A injuries as described in *Fink* because Samars's injury was of the seriousness contemplated by the statute that required immediate medical attention. See *Fink*, 174 Ill. 2d at 311.

¶ 27 Nevertheless, the defendant takes issue with the traffic accident report because it indicated that Samars had a Type C injury. This has little significance and does not change our holding because the remainder of the report and Samars's testimony indicated that a Type A injury occurred. Further, Officer Stanko testified that the form was generated after he submitted his written portion and he did not know what the "C" in the "Injury" box meant.

¶ 28 For the foregoing reasons, we cannot say that an opposite conclusion is clearly evident or that the circuit court's finding was unreasonable, arbitrary, or not based on the evidence presented. In conclusion, based on the record before us, the court's finding that Samars's injuries were Type A was not against the manifest weight of the evidence.

¶ 29

CONCLUSION

¶ 30

The judgment of the circuit court of Will County is affirmed.

¶ 31

Affirmed.