2017 IL App (4th) 170157-U

NOS. 4-17-0157

FILED
November 20, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Vermillion County
KEITH A. LUMSARGIS,	)	No. 14CF224
Defendant-Appellant.	)	
	)	Honorable
	)	Nancy S. Fahey,
	)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Steigmann and Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: (1) By failing to cite relevant authorities in his appellate brief, defendant forfeited the issue of whether the trial court abused its discretion by removing a prospective juror for cause.

(2) When all the evidence is regarded in a light most favorable to the prosecution, a rational trier of fact could find the elements of bribery to be proved beyond a reasonable doubt.

¶ 2 A jury found defendant, Keith A. Lumsargis, guilty of bribery (720 ILCS 5/33-1(a) (West 2014)) and official misconduct (720 ILCS 5/33-3(b) (West 2014)). After merging the official-misconduct counts into the bribery counts, the trial court sentenced him to 36 months' probation. Defendant appeals on two grounds.

¶ 3 First, he argues the trial court abused its discretion by granting the State's motion to dismiss a prospective juror for cause. We hold that because defendant cites no relevant authorities in support of this argument, the argument is forfeited.

¶ 4 Second, he argues the evidence is insufficient to sustain a conviction of bribery. We disagree. When all the evidence is regarded in a light most favorable to the prosecution, a rational trier of fact could find the elements of bribery to be proved beyond a reasonable doubt.

¶ 5 Therefore, we affirm the trial court's judgment.

¶ 6 I. BACKGROUND

¶ 7 A. The Information

¶ 8 The information has four counts.

¶ 9 Count I alleges that on May 22, 2014, defendant committed bribery (720 ILCS 5/33-1(a) (West 2014)) in that, "with the intent to influence the performance of an act related to the employment of a public officer or public employee," he "tendered *** a dinner" to a police officer, Ryan Schull, which Schull lacked authority to accept.

¶ 10 Count II alleges that on May 16, 2014, defendant committed bribery (720 ILCS 5/33-1(a) (West 2014)) in that, "with the intent to influence the performance of an act related to the employment of a public officer or public employee," he "promised to [Schull] a steak dinner," which Schull lacked authority to accept.

¶ 11 Count III alleges that on May 16, 2014, defendant committed official misconduct (720 ILCS 5/33-3(b) (West 2014)) in that, in his official capacity as an Illinois State trooper, he "knowingly performed an act which he knew he was forbidden by law to perform," namely, promising Schull he would buy him a steak dinner if Schull issued a ticket to defendant's ex-girlfriend, Mary Bailey.

¶ 12 Count IV alleges that on May 22, 2014, defendant committed official misconduct (720 ILCS 5/33-3(b) (West 2014)) in that, in his official capacity as an Illinois State trooper, he "knowingly performed an act which he knew he was forbidden by law to perform," namely,

"purchasing a dinner for *** Schull *** when Schull previously indicated to the defendant that he issued a ticket to his ex-girlfriend, Mary Bailey."

¶ 13 B. A Removal for Cause After *Voir Dire*

¶ 14 On November 7, 2016, during *voir dire*, the trial court read off a list of potential witnesses, mostly police officers, and asked the prospective jurors if they knew any of them. Among the names on the list was Shad Edwards of the Illinois State Police. The court asked: "Is there anyone in the first row that knows any of these people that I've named off?"

¶ 15 One of the prospective jurors, Cheri Duensing, raised her hand and answered that she knew Edwards. The trial court asked her:

"THE COURT: How do you know him?

JUROR DUENSING: I went to high school with him.

THE COURT: Is there anything—do you have an ongoing relationship with him?

JUROR DUENSING: I'm just, you know, Facebook friends. That's it.

THE COURT: Anything about your knowledge or what he does or your relationship with him that would prevent you from being fair and impartial in this case?

JUROR DUENSING: No.

THE COURT: Okay. Would you be able to judge his credibility and testimony in the same manner as anyone else?

JUROR DUENSING: Yeah.

THE COURT: Okay. Would you—would you be more likely to believe him than anyone else because you know him?

JUROR DUENSING: Probably, yes.

THE COURT: Okay. So you think you could not be fair and impartial?

JUROR DUENSING: Probably not. I knew him through high school, so I would probably be partial to his—

THE COURT: You would be partial to him?

JUROR DUENSING: Yeah."

¶ 16 After *voir dire* was finished and the prospective jurors left the courtroom, the prosecutor moved to excuse Duensing for cause. Defense counsel responded: "Judge, we would object. I think she can follow the instructions. The only reason, basis would be is [*sic*] she knew Shad Edwards." The trial court ruled: "I think earlier on in her questioning she indicated she thought she would give more credibility to a police officer than anyone else, so I am going to remove her for cause, over the objection of the defendant."

¶ 17 C. The Jury Trial

¶ 18 The jury trial occurred on November 7 and 8, 2016. The State called five witnesses: Ryan Schull, Steve Cornett, Ryan Ghibaudy, Daniel Carter, and Greg Kilduff. Defendant testified in his own behalf. The parties also presented stipulations. Exhaustively recounting all the testimony and stipulations would be unnecessary to an understanding of this case. Instead, we will limit ourselves to the testimony of Schull, Cornett, Ghibaudy, and defendant, along with a stipulation.

¶ 19 1. *The Testimony of Ryan Schull*

¶ 20 Since about 2010, Ryan Schull had been a police officer for Tilton, Illinois. He knew defendant only in a professional capacity. He knew he was an Illinois State trooper.

¶ 21 In early 2014, while Schull was on duty, defendant approached him at the Tilton police station, which was located in the village hall, and he seemed "pretty upset." Defendant told him he was "having issues" with his girlfriend, Mary Bailey—they were breaking up—and he asked Schull "to not do him any favors and pull his girlfriend over." Schull understood this as a request (apparently, an ironically worded request) to keep an eye out for Bailey and to write her a ticket for any traffic offense he saw her commit. Defendant even suggested to Schull some offenses to which she supposedly was prone: driving under the influence, obstruction of the windshield, and child endangerment. He described her vehicle as a red Chevrolet (Schull could not remember the type of Chevrolet), he identified her customary route as Catlin-Tilton Road, and he said her license plate was DANDEZ 6.

¶ 22 Afterward, defendant continued to communicate with Schull, in person and by texting, and it was always and only to inquire how he was progressing with the mission that defendant had laid upon him: to catch Bailey in a traffic offense and to ticket her. Schull tried to humor him—telling him okay, he was working on it—because he was afraid that defendant might retaliate against him and his family as, evidently, defendant was trying to retaliate against Bailey.

¶ 23 People's exhibit No. 7 consisted of text messages from defendant that Schull had printed out from his cell phone. One message was " 'Hope you work Catlin[-]Tilton Road between 7:30 and 8:30 tomorrow' "—which, defendant had told him, was one of the times of day when Bailey traveled that road. Another message was " 'Okay, spread word in Tilton, all shifts need to be looking, as long as they keep quiet. You decide who to tell.' " Another message was " 'Cool. Hard copies only, even if no DUI, P-L-Z.' " ("Hard copies," Schull explained, was police lingo for uniform traffic citations.) Another message asked: " 'Any luck?' " Schull sent a

message back stating: " 'No. Had to be at the courthouse at 8 to meet the States Attorneys.' " Defendant responded: " 'That sucks. I hope somebody gets her.' "

¶ 24 On March 26, 2014, while Schull was in the village hall, he received a text message from defendant stating, " 'Come outside, knucklehead.' " He came outside, and defendant jubilantly showed him a speeding ticket he had just issued to Lisa Ledoux, a close friend of Bailey's. Schull testified: "He was really excited about it, basically, you know, laughing about it, pretty excited."

¶ 25 On April 16, 2014, Schull came out of the village hall, and defendant was parked outside in his Illinois State Police squad car. Defendant reached out the window and pointed at Schull, commanding him, " 'Get it done. Get it done.' " Schull responded, " ['O]kay, bye,['] " or words to that effect. Moments afterward, as Schull was driving away in his own squad car, he received a text message from defendant stating: " 'I'm not asking. Get it done.' "

¶ 26 Schull detected a note of menace in this latest message, so he went to his boss, Steve Cornett, the chief of police of Tilton, and described how defendant had been importuning him for the previous three or four months to target his ex-girlfriend, Bailey. Cornett decided to call Kim Hart, who worked in internal affairs at the Illinois State Police.

¶ 27 Internal affairs interviewed Schull, obtained an overhear warrant, and provided him a digital listening device, which he was to wear under his vest and turn on every time he had any further conversation with defendant. Schull did as he was instructed. The recordings, as well as transcriptions thereof, were admitted in evidence in the trial.

¶ 28 Neither the recordings nor the transcriptions appear to be included in the record on appeal. In the transcript of the trial, however, the prosecutor quotes from the recordings.

¶ 29 One such recording, in fact the first one, was of a conversation that Schull had with defendant outside the village hall around 6 a.m. on May 14, 2014. The two of them were pulled up beside one another in their squad cars (Schull testified). The prosecutor asked Schull:

"Q. Okay. Now on the recording you asked [defendant], quote, 'Who you want to get?' And he responded to you by saying, 'Whoever.' To your understanding, who is 'whoever'?

A. 'Whoever' I took as Mary Bailey or her best friend, Lisa.

Q. How did you reach that conclusion?

A. That's what we was [*sic*] talking about in all reality of things.

Q. What you were talking about since you first started communicating with him?

A. Yes. Yes.

Q. Now were you ever tasked to work any other detail, shift, or project with [defendant] at any time?

A. No.

* * *

Q. Now when the Defendant said, quote—excuse me if I get a little off here—'It's going to be cell phone, viewer obstruction, and speed.' What did you interpret that to mean?

A. Those were the infractions that Mary Bailey, [defendant's] ex-girlfriend, would do, as far as, like the cell phone, viewer obstruction. He said there was a bunch of medals and stuff on her rearview mirror. Speeding, he said she always speeds.

* * *

Q. Now I want to go back a little bit to this comment you said about the steak dinner. You said, quote, 'Oh, I talked to Ghibaudy. He said something about a steak dinner. What's up with that?' How did you learn about Mr. Ghibaudy and a steak dinner?

A. It was brought to my attention that he had offered Ghibaudy a steak dinner.

Q. Did you ever offer to [defendant] to write a traffic ticket to Ms. Bailey, or anyone for that matter—

A. No.

Q. —in exchange for a dinner?

A. No.

Q. Was this conversation all at the direction of the Illinois State Police?

A. This was all at the direction of the division of internal affairs.

Q. And just so we're clear, who did you understand Officer Ghibaudy to be?

A. Officer Ghibaudy is a Village of Catlin [p]olice [o]fficer.

Q. Okay. And moving on just a little bit here, I note where the Defendant says, in response to you saying what we just quoted, he said, quote, 'Whoever gets her is getting a steak dinner.' Just so we're clear, what did you interpret that to mean?

A. I interpreted that to be Mary Bailey, the Defendant's ex-girlfriend.

* * *

Q. Okay. I want to move forward a little bit to where [defendant] says, quote, 'Yeah, I told Ryan that, steak dinner, whoever wants—whoever does it, Dave Harrold, too.' Once again, you understand 'Ryan' to be Officer Ghibaudy?

A. That is correct.

Q. Do you know who Dave Harrold is?

A. I do.

Q. Who is he?

A. He's retired now, recently. He was a deputy with the Vermilion County Sheriff's Department.

Q. To your knowledge, was he employed in that capacity at that time?

A. Yes, he was."

¶ 30 On May 16, 2014, defendant and Schull had their second recorded conversation about their supposedly shared objective of catching Bailey in a traffic offense. Schull played along, as internal affairs had requested him to do. Defendant made a remark about Ledoux " 'stirring up some shit.' " Schull said, " 'Well, sounds like they are stirring up enough crap they need to get caught.' " Defendant said, " 'I'd say no later than quarter to 8:00 she's coming, red Chevrolet, you know the plate.' " By "her," Schull understood him to mean Bailey. The two of them agreed they would wait in their squad cars at separate points along Bailey's expected route of travel, Catlin-Tilton Road. Defendant would wait in Catlin, and Schull would wait at Southwest Elementary School, in Tilton. That way, when defendant saw Bailey go by, he could radio Schull that she was on her way. The objective was for Schull to clock her both before and after the school zone, thereby "get[ting] her in two different spots."

¶ 31 In reality, Schull had no intention to pull Bailey over. Nor did he have any contact with her that day. Instead, as internal affairs had instructed him to do, he effected a mock traffic stop of Bailey at 5th and L Streets, in Tilton, for an obstructed windshield. He ran her information through his in-car computer and over the radio, and he wrote a fake ticket, as if he had pulled her over. He then went looking for defendant and found him in the parking lot of Family Dollar in Tilton. He pulled up alongside defendant and showed defendant the fake ticket. They made plans to meet at the Possum Trot Supper Club (Possum Trot), in Oakwood, Illinois.

¶ 32 On May 22, 2014, around 5:30 p.m., they arrived at Possum Trot in defendant's pickup truck. They went inside, ordered, and ate supper. Defendant paid for both of their orders. Schull contributed nothing, not even a tip.

¶ 33 When they emerged from the restaurant, some Illinois State troopers were waiting for them outside. "[P]ursuant to the detail plans," the troopers arrested them both and took them away in separate cars. As soon as Schull was out of sight, the handcuffs were taken off him. He then was dropped off at the Tilton village hall, where his own pickup truck was parked.

¶ 34 On cross-examination, defense counsel asked Schull:

> "Q. And the Tilton Police Department has no policy against an officer receiving gratuity; isn't that true?
>
> A. No, but it's a State law.
>
> Q. Judge, that's not responsive, and he's volunteering. Move to strike. Now he's acting like a lawyer.
>
> THE COURT: I'm going to allow the answer to stand. I think he was answering your question.

Q. MR. ZOPF [(defense counsel)]: My question is does the Tilton Police Department have a policy against gratuities to the officers?

THE WITNESS: I'm not exactly sure if it has adopted the State law, but not as a village of Tilton policy, no."

¶ 35 2. *The Testimony of Steve Cornett*

¶ 36 Steve Cornett, Tilton's chief of police, testified that in April 2014 Schull approached him and "said that he wasn't sure really what to do." Schull was concerned about some text messages he had been receiving from defendant "in reference to him making a stop on an ex-girlfriend." According to Schull, defendant had been sending him these text messages for some time, and Schull was beginning to "[feel] a little bit on the threatened side." Cornett decided to "ma[k]e contact with Kim Hart from the Illinois State Police." Hart told him that Schull himself would have to file a complaint. Schull did so.

¶ 37 On cross-examination, defense counsel asked Cornett:

"Q. And you were asked to turn over a number of documents to the Court, including your policies and procedures. Do you recall that?

A. Yes, I do recall that.

Q. You do not have a policy for officers prohibiting them from receiving small gratuities, do you?

A. That's correct."

¶ 38 3. *The Testimony of Ryan Ghibaudy*

¶ 39 As of the time of the trial, Ryan Ghibaudy was a patrol officer for Georgetown, Illinois. Previously, in 2014, he was a full-time maintenance worker in the Public Works

Department of Westville, Illinois, and, simultaneously, a part-time police officer for Catlin, Illinois.

¶ 40 In February 2014, while Ghibaudy was on duty as a maintenance worker removing snow in Westville, defendant flagged him over, next to the public-works building. (Ghibaudy knew defendant socially, but he denied they ever were friends.) At defendant's request, Ghibaudy got into defendant's Illinois State Police squad car and sat down in the front passenger seat. Defendant told him he knew he was a part-time police officer for Catlin and that he, defendant, had a tip for him. It was about a woman (defendant did not specify her name) whose routine was to drive through Catlin during the evening hours. She would be driving a red sports utility vehicle, license plate DANDEZ 6, and defendant believed she had a habit of drinking too much before getting behind the wheel. Ghibaudy took down this information, exchanged cell-phone numbers with defendant, and returned to his duties as a maintenance worker. As it turned out, he never took any action on the information defendant had given him. It was not until afterward that he learned the woman's name and that she was defendant's ex-girlfriend.

¶ 41 Several times afterward, defendant texted Ghibaudy, asking him if he had succeeded in finding the woman and citing her for a traffic infraction. It was always defendant who contacted Ghibaudy, either by texting him or speaking with him directly. On no occasion did Ghibaudy ever initiate contact with defendant.

¶ 42 The prosecutor asked Ghibaudy:

> "Q. Now at some point in time during the course of your communication with the Defendant, did he offer you anything of value in return for citing Mary Bailey?

A. Yes. At one point, [defendant] offered me a dinner, and referenced if I was to pull his ex-girlfriend over, that he would buy dinner, my choice, anywhere.

Q. And was this in any way solicited by any comments that you had already made?

A. No.

Q. Would this have been in March and/or April of 2014?

A. Yes.

Q. Okay. And did you ever act on the Defendant's information?

A. No, I did not.

Q. Why not?

* * *

[A.] Because it's not right."

¶ 43 Ghibaudy felt "intimidated" by a particular text message in which defendant asked him if he had "got it done." Worse yet, in another text message, defendant told him: " 'You must be a chickenshit motherfucker and sit in the office all day.' " After receiving that message, Ghibaudy decided he would have nothing further to say to defendant.

¶ 44 Afterward, the Illinois State Police interviewed Ghibaudy regarding his encounters with defendant. Because Ghibaudy was at the time seeking full-time employment as a police officer, he chose not to participate in the investigation. He was afraid that if he served as an informant against defendant, he would lose "credibility"—by which he meant that other police officers would distrust him.

¶ 45 The State rested, the jury left the courtroom, and the defense moved for a directed verdict on all four counts of the information. Defense counsel argued that a chicken dinner

costing $12.95 was so trivial in value as to be insufficient evidence of *quid pro quo*. He also argued there was no evidence that defendant ever asked for anything other than enforcement of the law. Defendant never urged any police officer to write someone a ticket who did not deserve one. The court denied the motion.

¶ 46 Defense counsel then informed the trial court that after repeated discussions with him, defendant had decided he wanted to testify. The court admonished defendant regarding this decision, the jury returned to the courtroom, and defendant took the stand.

¶ 47 4. *Defendant's Testimony*

¶ 48 Defendant testified that in 2014 he was a trooper, first class, with the Illinois State Police and that he was assigned to District 10, which included Vermilion County. As a trooper, he occasionally stopped by the Tilton police department, which provided a little office space for the Illinois State Police, in the basement of the village hall. There defendant would leave police-related documents, *e.g.*, tow reports, citations, and investigative reports, so that another trooper could take them to the District 10 headquarters.

¶ 49 Sharing office space was not the only way the local police and the state police worked together. They backed one another up in traffic stops. They performed details together. They shared information.

¶ 50 In 2014, defendant believed he had legitimate information to share regarding his ex-girlfriend, Mary Bailey, who decided to break up with him on February 9, 2014. (He testified he had been fine with ending their relationship.) Having known her personally, he had firsthand knowledge of her dangerous driving habits. For one thing, she often used a cell phone while driving. He had talked with her about that, to no avail. Also, he knew she drank and drove. In his 13 years as a trooper, he had investigated 50 fatal traffic crashes in which alcohol was involved,

and he was concerned that Bailey, after having had too much to drink, would get into an accident and hurt herself, her 14-year-old daughter, or others.

¶ 51 Defendant had expressed these concerns to two master sergeants at District 10 (whom he did not name), and both had acknowledged that if he had probable cause, he could target Bailey. Also, he had talked with Master Sergeant Shad Edwards about Ledoux, an inveterate speeder, who happened to be Bailey's friend. Edwards had given him the same assurance: as long as he had probable cause, he had nothing to worry about; if he saw Ledoux violating the rules of the road, he could pull her over and give her a ticket, fair and square.

¶ 52 The problem was, defendant was not always on duty while Bailey and Ledoux were on the road. So, he approached other police officers and asked them to keep an eye out for these two women. Defendant insisted he had a preemptive law-enforcement motivation that was twofold: (1) to avert a terrible traffic accident and (2) to prevent Bailey from escaping her just deserts, a traffic ticket, by throwing his name around during traffic stops.

¶ 53 But what about the steak dinner? defense counsel asked. Defendant answered that the steak dinner was something Ghibaudy had requested, not something he, defendant, had offered. In early February 2014, in Westville, while defendant was off duty and shoveling snow from his driveway, Ghibaudy, who was on the job as a public-works employee, stopped by and confided he was having problems with the mayor of Catlin. The mayor, being the owner of the Corner Bar, did not want Ghibaudy to arrest people for driving under the influence. Ghibaudy mentioned "that he had seen [Mary Bailey's] vehicle outside of the Corner Bar on more than one occasion." Defendant explained to him the concept of probable cause.

¶ 54 Defense counsel asked defendant:

"Q. After this conversation with Ryan Ghibaudy, what did you take him to mean with the steak dinner?

A. I had mentioned some issues with the mayor of Catlin. He said[,] ['B]ecause I'm having problems and I don't want to get in trouble, if I arrest her, ticket her, would you buy me dinner?['] I chuckled, and I said, 'Well, okay.'

Q. At that time, did you intend to influence the performance of his duties?

A. Absolutely not.

Q. Did you intend for him to violate Mary Bailey's civil rights?

A. No, sir."

¶ 55 Defense counsel asked:

"Q. Did you initiate a conversation on that recording with Ryan Schull about a steak dinner?

A. No, sir. I'm not sure of the date. When the issue of steak dinner was announced, it was Ryan Schull asking me.

* * *

[Q.] Did you go to the Possum Trot?

[A.] I did.

Q. Who was with you, if anyone?

A. Ryan Schull. Ryan Schull was.

Q. What took place at the Possum Trot after 5:00 that day?

A. We had a lengthy discussion [about a motorcycle gang].

* * *

Q. At some point, did you order?

A. Yes, sir.

Q. What did you order?

A. It was the early pork chop meal.

Q. What did he order?

A. He ordered a chicken dinner.

Q. Did you pay for the dinner?

A. I did.

* * *

Q. Directing your attention to People's exhibit [No.] 5, [I] ask you to review that and tell me what it is.

A. It's a receipt from the Possum Trot Supper Club. It has the time stamp, date, the order of both of us, tax[,] and total.

Q. Did you and Mr. Schull have a conversation about payment of that bill?

A. We did.

Q. What did he say?

A. He offered to get the tip.

Q. Did he get the tip?

A. No. I told him I would get it.

Q. And did you do so?

A. I did.

Q. When you did that, were you trying to get him to violate Mary Bailey's civil rights?

A. No, sir."

¶ 56 5. *The Stipulated Testimony of Annette Armes*

¶ 57 The parties entered into a stipulation, which read as follows:

"[I]f called to testify in this trial, Annette Armes would testify as follows: That on May 22 of 2014, she was employed as a waitress at the Possum Trot Supper Club at 2918 Batestown road in Oakwood, Vermilion County, Illinois.

Two, that on that date, between approximately 5:30 and 6:30 p.m., she was the waitress for [defendant] and Ryan Schull.

Three, that she served [defendant] and Ryan Schull a grilled chicken meal and a quote, 'early chop,' unquote, pork meal.

Four, that [defendant] paid the bill of $28.17 with a $50 bill and received change of $21.83.

Five, that she issued receipt for payment of the meal to [defendant] and would identify the receipt as People's Exhibit Number 5.

Six, that she later positively identified [defendant] as the person who ordered and paid her for the meal and would identify the Defendant in open court."

¶ 58 On November 8, 2016, the jury found defendant guilty of all four counts of the information.

¶ 59 On November 16, 2016, defense counsel moved to merge counts III and IV (official misconduct) into counts I and II (bribery). He also filed a posttrial motion.

¶ 60 On February 2, 2017, the trial court held a sentencing hearing. The court granted the motion for a merger but denied the posttrial motion. Then, after hearing testimony and

recommendations, the court sentenced defendant to 36 months of probation for count I and 36 months of probation for count II, ordering that the sentences run concurrently.

¶ 61 This appeal followed.

¶ 62 II. ANALYSIS

¶ 63 A. The Excusal of Duensing for Cause

¶ 64 For essentially two reasons, defendant argues the trial court abused its discretion by excusing a prospective juror, Cheri Duensing, for cause: (1) the State had not exercised all its peremptory challenges; and (2) Duensing's "answer was equivocal and would have been acceptable had the court made further inquiry."

¶ 65 Setting aside the question of how defendant knows what Duensing would have said upon further inquiry, we note that defendant cites only two cases on the subject of the for-cause excusal of prospective jurors. One case, *People v. Alvarez*, 2016 IL App (4th) 140695-U (to which, by the way, he provides an incorrect citation) is a Rule 23 order that Illinois Supreme Court Rule 23(e)(1) (eff. July 1, 2011) forbids him to cite, since he does not cite it "to support [a contention] of double jeopardy, *res judicata*, collateral estoppel[,] or law of the case." The other case, *People v. Evans*, 2016 IL App (1st) 142190, has nothing to do with the for-cause excusal of prospective jurors. The only issue the appellate court addressed in *Evans* was whether excluding a spectator from the courtroom during *voir dire* violated the right to a public trial. *Evans*, 2016 IL App (1st) 142190, ¶ 1.

¶ 66 Thus, defendant cites no relevant authority in support of his argument that the trial court abused its discretion by excusing Duensing for cause. "A point raised in a brief but not supported by citation to relevant authority fails to satisfy the requirements of Supreme Court

Rule 341(e)(7) (188 Ill.2d R. 341(e)(7) [(now Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016)]) and is therefore forfeited." *People v. Ward*, 215 Ill. 2d 317, 332 (2005).

¶ 67 B. The Sufficiency of the Evidence

¶ 68 Defendant argues that "[w]hen [one] look[s] at the totality of the evidence in a light most favorable to the prosecution[,] no rational trier of fact could believe that the defendant intended that Ryan Schull should unlawfully arrest or cite Mary Bailey for a 'bribe' " of merely $12, the cost of the chicken dinner. See *People v. Bush*, 214 Ill. 2d 318, 326 (2005). He points out the lack of evidence that he ever asked Schull or any other police officer to (1) make a stop without reasonable suspicion, (2) write a citation unsupported by probable cause, (3) violate Bailey's civil rights in any way, or (4) harass her.

¶ 69 To commit bribery, however, the defendant need not intend to influence the public officer to do something illegal or blameworthy. We decline to insert such a condition into the unambiguous text of the bribery statute (720 ILCS 5/33-1(a) (West 2014)). "Courts may not depart from the plain language of a statute by reading into it exceptions, conditions, or limitations that the legislature did not express." (Internal quotation marks omitted.) *People v. Shreffler*, 2015 IL App (4th) 130718, ¶ 23.

¶ 70 The legislature has expressed the elements of bribery as follows:

> "A person commits bribery when:
>
> (a) With intent to influence the performance of any act related to the employment or function of any public officer, public employee, juror[,] or witness, he or she promises or tenders to that person any property or personal advantage which he or she is not authorized by law to accept ***." 720 ILCS 5/33-1(a) (West 2014).

Thus, for purposes of bribery, only the public officer's acceptance of the property or personal advantage must be legally unauthorized. See *id.* The sought-after performance by the public officer need not be legally unauthorized. The defendant need not intend to influence the public officer's performance in such a way as to make the performance illegal or blameworthy. 720 ILCS 5/33-1(a) (West 2014). In short, it is possible to bribe a public officer *to do his or her job*.

¶ 71 Assume, for example, that *A* is a police officer who, instead of doing his job, spends all his time in his office with his feet up on his desk, watching YouTube videos. *B*, a concerned citizen, storms into the office and tells him, "If you will get off your hind end and go over to the elementary school and ticket the scofflaws who are speeding through the school zone, I will buy you a bottle of bourbon." *B* has committed bribery.

¶ 72 That *B* merely was trying to induce a public officer to do his job will not work as a defense against guilt any more than it worked for the petitioner in *In re Fleischman*, 135 Ill. 2d 488 (1990). In that case, a petitioner for reinstatement to the roll of attorneys insisted that, years ago, when he made cash payments to commissioners on the Cook County board of tax appeals (board), all he intended was to induce them to read his clients' files. *Fleischman*, 135 Ill. 2d at 491-92. In those days, the board had a crushing caseload. *Id.* at 492. It had tens of thousands of pending property-tax appeals, and "the stacks of files were so high that an attorney looking at the bench could not see the commissioners." *Id.* Typically, a hearing lasted only 10 seconds. *Id.* The system was broken. Procedures were chaotic and slapdash. *Id.* The petitioner, by contrast, was meticulous in preparing his case files, and he never took a case unless he honestly believed a tax reduction was warranted. *Id.* As a practical matter, however, his careful work and the merits of his cases were to no avail unless he could somehow influence the commissioners to read his case files—that is, to do their jobs. The cash contributions served that purpose: they were nothing

more than inducements to render legal performance, or so the petitioner adamantly insisted. *Id.* at 491.

¶ 73 The supreme court responded:

> "Even assuming petitioner paid [the commissioners] *only* to encourage them to read the files of his appeals as they were legally required to do, petitioner's actions are no less bribery, because petitioner intended 'to influence the performance of [an] act related to the employment or function of [a] public officer.' (See Ill. Rev. Stat. 1987, ch. 38, par. 33-1 (bribery).) Although there is no evidence here of *fraudulent* reductions, *** petitioner's misconduct was nonetheless serious." (Emphasis in original.) *Id.* at 496.

¶ 74 Likewise, although there appears to be no evidence that by promising to buy a steak dinner for Schull, defendant intended to influence him to issue a *fraudulent* ticket to Bailey (that is, a ticket unsupported by probable cause), defendant's conduct was nonetheless serious. He committed bribery. With the "intent to influence the performance of any act related to the employment or function of" a Tilton police officer, he "promis[ed] or tender[ed] to that person [some] property or personal advantage which he *** was not authorized by law to accept." 720 ILCS 5/33-1(a) (West 2014).

¶ 75 Defendant observes that the Tilton police department has no written policy forbidding its police officers from accepting gratuities. A gratuity, however, is a gift, and judging by what defendant told Schull—" 'Whoever gets her is getting a steak dinner' "—defendant had a *quid pro quo* in mind, not a "gratuity" in the true sense of the word. Defendant bought a dinner for Schull because a deal was a deal. The dinner was in exchange for the (supposed) ticketing of Bailey. We are aware of no law authorizing Schull to receive compensation for his law-

enforcement services beyond his salary from the village of Tilton. See 720 ILCS 5/33-1(a) (West 2014).

¶ 76 III. CONCLUSION

¶ 77 For the foregoing reasons, we affirm the trial court's judgment, and we award the State $75 in costs against defendant.

¶ 78 Affirmed.