

No. 1-15-3641

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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. YB 482033
)	
RACHEL RODRIGUEZ,)	Honorable
)	James A. Zafiratos,
Defendant-Appellant.)	Judge Presiding.

JUSTICE MIKVA delivered the judgment of the court.
Presiding Justice Pierce and Justice Griffin concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant's conviction for driving too fast for conditions is reversed where there was no evidence regarding the speed at which she was traveling.
- ¶ 2 Rachel Rodriguez was convicted, after a bench trial, of driving too fast for conditions and driving under the influence of alcohol and drugs. The trial court sentenced Ms. Rodriguez to concurrent terms of 18 months' supervision on each charge, a fine of \$100 on the driving too fast charge, and 60 hours of community service on the driving under the influence charge. On appeal, Ms. Rodriguez argues that the State failed to prove her guilty beyond a reasonable doubt of driving too fast for conditions because there was no evidence regarding the rate of speed at

which she was traveling. We agree and reverse Ms. Rodriguez's conviction for that offense.

¶ 3

I. BACKGROUND

¶ 4 At trial, Viviana Garcia testified that about 11:30 p.m. on February 8, 2015, she was sitting alone in the driver's seat of her vehicle, double-parked in front of her cousin's home in Cicero. Another vehicle struck Ms. Garcia's from behind. Ms. Garcia left her vehicle and saw Ms. Rodriguez exit through the driver-side door of the other vehicle. A male passenger also exited Ms. Rodriguez's vehicle.

¶ 5 Ms. Garcia asked Ms. Rodriguez for her insurance information. Ms. Rodriguez refused and stated that there was no damage to Ms. Garcia's vehicle. Ms. Garcia and Ms. Rodriguez became engaged in "a little confrontation." As Ms. Rodriguez and her passenger attempted to return to their vehicle, Ms. Garcia's sister arrived at the scene with her boyfriend. An argument ensued with everyone yelling for several minutes. Ms. Garcia testified that she had previously observed intoxicated people, and that, based on the manner in which Ms. Rodriguez was speaking, Ms. Rodriguez appeared to be intoxicated.

¶ 6 Ms. Rodriguez returned to her vehicle and attempted to drive away, nearly striking Ms. Garcia. Ms. Rodriguez struck multiple cars as she drove the short distance to the end of the block. Some neighbors came outside, and one of them removed the keys from Ms. Rodriguez's ignition and threw them into the snow to prevent her from leaving.

¶ 7 Ms. Garcia's cousin then came outside with one of her friends. Ms. Garcia was crying, and her cousin escorted her inside the house to clean up her makeup. Ms. Garcia returned outside five minutes later as the police arrived at the scene.

¶ 8 On cross-examination, Ms. Garcia acknowledged that she did not see Ms. Rodriguez's vehicle before it struck her car. The only time Ms. Garcia saw Ms. Rodriguez driving her vehicle

was when Ms. Rodriguez attempted to leave the scene. The damage to Ms. Garcia's vehicle consisted of "[j]ust a little dent." Ms. Garcia testified that it was very cold that night and "[v]ery slippery." Ms. Garcia denied seeing any physical confrontation. She testified that when she came back outside, Ms. Rodriguez's passenger was bleeding. Ms. Garcia told police that she saw the passenger fall on the ice. Ms. Garcia said that she did not see a third person in Ms. Rodriguez's vehicle.

¶ 9 Cicero police officer Lara testified that he and his partner arrived at the scene, and based on their investigation, determined that Ms. Rodriguez was driving the vehicle that struck Ms. Garcia's vehicle. Officer Lara smelled a strong odor of alcohol on Ms. Rodriguez's breath, and observed that her eyes were red, bloodshot and glassy. Ms. Rodriguez admitted that she struck Ms. Garcia's vehicle. She further admitted that she had earlier consumed alcohol and smoked cannabis.

¶ 10 Officer Lara administered two field sobriety tests to Ms. Rodriguez at the scene, the horizontal gaze nystagmus test and the Romberg test. Defendant did not pass either test. After speaking with Ms. Garcia, Officer Lara placed Ms. Rodriguez in custody. At the police station, Officer Lara administered two additional sobriety tests. Ms. Rodriguez passed the one-legged stand test, but not the walk-and-turn test. Ms. Rodriguez spontaneously stated that she took Adderall and Xanax, and that she knew she should not consume alcohol with those medications because of the way it affects her.

¶ 11 Ms. Rodriguez also told Officer Lara that she was four months pregnant. Officer Lara called for an ambulance. However, when the ambulance arrived, Ms. Rodriguez said she was not pregnant and refused any medical treatment. Ms. Rodriguez also declined to take Breathalyzer and urine tests. Based on Ms. Rodriguez's statements and her performance on the sobriety tests,

Officer Lara opined that Ms. Rodriguez was under the influence of alcohol and drugs. On cross-examination, Officer Lara acknowledged that it was cold and icy outside that night.

¶ 12 Cicero police officer Sirgedas testified for the defense that Ms. Rodriguez complained of some type of injury, which led police to call an ambulance to the station. He could not recall the injury. Officer Sirgedas acknowledged that it was possible that Ms. Rodriguez complained of pain prior to taking the field sobriety tests. He noted that Ms. Rodriguez told police she was pregnant.

¶ 13 Ms. Rodriguez testified that on the night of the incident, she was not driving her vehicle. She testified that Victor, a friend of her boyfriend, was driving. Her boyfriend, John Webster, was sitting in the front passenger seat, and Ms. Rodriguez was sitting in the back seat. Ms. Rodriguez's vehicle encountered black ice, and slid into Ms. Garcia's vehicle. Mr. Webster and Victor exited the vehicle. Ms. Rodriguez initially remained in the back seat and was reaching for her insurance information. She then observed Mr. Webster being "jumped" by Ms. Garcia and five men. Victor fled the scene. Ms. Rodriguez climbed from the back seat into the front seat and exited the driver-side door of her vehicle. Mr. Webster was on the ground being punched and kicked. Ms. Rodriguez tried to shield him from the attackers, and was hit five or six times. Ms. Rodriguez and Mr. Webster reentered their vehicle twice, but the attackers repeatedly dragged Mr. Webster out of the car. Mr. Webster was beaten by the group three times before the police arrived at the scene. At some point, someone removed the keys from Ms. Rodriguez's ignition. When the police arrived, Ms. Rodriguez told them that she needed medical assistance, but they denied her request.

¶ 14 Ms. Rodriguez denied telling police that she was driving. She acknowledged that she drank one beer that night, but denied smoking cannabis. She also denied telling police that she

was pregnant. Ms. Rodriguez acknowledged that she takes Adderall and Xanax three times a day.

¶ 15 The trial court found the testimony from Ms. Garcia and the police officers credible, and found no credibility in Ms. Rodriguez's testimony. The court found Ms. Rodriguez guilty of driving too fast for conditions and driving under the influence of alcohol and drugs.

¶ 16

II. JURISDICTION

¶ 17 Ms. Rodriguez was sentenced on December 21, 2015, and timely filed her notice of appeal that same day. This court has jurisdiction under article VI, section 6, of the Illinois Constitution (Ill. Const. 1970, art. VI, § 6) and Illinois Supreme Court Rules 603 and 606, governing appeals from a final judgment of conviction in a criminal case. (Ill. S. Ct. Rs. 603, 606 (eff. Feb. 6, 2013)).

¶ 18

III. ANALYSIS

¶ 19 On appeal, Ms. Rodriguez's only argument is that the State failed to prove her guilty beyond a reasonable doubt of driving too fast for conditions, because there was no evidence regarding the rate of speed at which she was traveling. Ms. Rodriguez points out that Ms. Garcia did not see Ms. Rodriguez's vehicle moving prior to the accident. She further argues that the evidence showed that it was an icy night, and Ms. Garcia's vehicle sustained "just a little dent." Accordingly, Ms. Rodriguez argues that there is no circumstantial evidence from which the court could infer that she was driving too fast.

¶ 20 Initially, Ms. Rodriguez asserts that the proper standard of review is *de novo*, claiming that the relevant facts in this case are undisputed. See *People v. Smith*, 191 Ill. 2d 408, 411 (2000) (when the facts are undisputed, a defendant's guilt is a question of law that is reviewed *de novo*). The record shows, however, that the facts in this case were in dispute, including

whether there was circumstantial evidence from which a trier of fact could have inferred that Ms. Rodriguez was driving too fast for conditions.

¶ 21 Therefore here, as in most criminal cases in which a defendant claims that the evidence is insufficient to sustain a conviction, this court must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the elements of the offense proved beyond a reasonable doubt. *People v. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). This standard applies whether the evidence is direct or circumstantial, and does not allow this court to substitute its judgment for that of the fact finder on issues involving witness credibility and the weight of the evidence. *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009). Under this standard, all reasonable inferences from the evidence must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42.

¶ 22 In a bench trial, the trial court is responsible for determining the credibility of the witnesses, weighing the evidence, resolving conflicts in the evidence, and drawing reasonable inferences therefrom. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). We will not reverse a criminal conviction based upon insufficient evidence unless the evidence is so improbable or unsatisfactory that there is reasonable doubt as to the defendant's guilt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011).

¶ 23 The statute under which Ms. Rodriguez was convicted of driving too fast for conditions provides, in relevant part:

“No vehicle may be driven upon any highway of this State at a speed which is greater than is reasonable and proper with regard to traffic conditions and the use of the highway, or endangers the safety of any person or property. The fact that the speed of a vehicle does not exceed the applicable maximum speed

limit does not relieve the driver from the duty to decrease speed when *** special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.” 625 ILCS 5/11-601(a) (West 2014).

The State was therefore required to show that Ms. Rodriguez drove her vehicle at a rate of speed that was too fast for the conditions or circumstances present at the time of the offense. *Id.*; *People v. Sampson*, 130 Ill. App. 3d 438, 444 (1985).

¶ 24 Evidence of a defendant’s intoxication, without more, does not support an inference of carelessness that is sufficient to satisfy the element of this offense. *People v. Brant*, 82 Ill. App. 3d 847, 851-52 (1980). Moreover, this court has repeatedly found that proof that a defendant was driving too fast for conditions or failed to reduce speed cannot be inferred from the mere fact that a collision occurred. *People v. Sturgess*, 364 Ill. App. 3d 107, 116-17 (2006); *Sampson*, 130 Ill. App. 3d at 443-44; *Brant*, 82 Ill. App. 3d at 852. To hold otherwise would mean that anyone involved in an automobile accident could be convicted of failing to reduce speed to avoid an accident. *Sampson*, 130 Ill. 2d at 443-44; *Brant*, 82 Ill. App. 3d at 852.

¶ 25 Here, we find that the evidence was not sufficient to sustain Ms. Rodriguez’s conviction for driving too fast for conditions. Ms. Garcia testified that she was sitting in her vehicle, double-parked, when she was struck from behind by Ms. Rodriguez’s vehicle. Ms. Garcia acknowledged that she did not see Ms. Rodriguez driving her vehicle prior to the accident. She further acknowledged that the damage to her vehicle consisted of “[j]ust a little dent.”

¶ 26 Ms. Garcia, Officer Lara, and Ms. Rodriguez all testified that it was very cold and icy

outside that night. Ms. Rodriguez further testified that her vehicle encountered black ice and slid into Ms. Garcia's vehicle. The trial court could not infer that Ms. Rodriguez was driving too fast for conditions merely because the accident occurred. *Sturgess*, 364 Ill. App. 3d at 116-17; *Sampson*, 130 Ill. App. 3d at 443-44; *Brant*, 82 Ill. App. 3d at 852. There is no direct evidence of Ms. Rodriguez's speed and the circumstantial evidence is simply insufficient to conclude that she was driving too fast for conditions.

¶ 27 This case is similar to *Sampson* and *Brant*. In *Sampson*, the defendant's conviction for driving too fast for conditions was reversed where a police officer observed the intoxicated defendant's car resting against a telephone pole off the road, but there was no evidence as to the posted rate of speed, the rate of speed at which the defendant was traveling, or the conditions or circumstances at the time of the offense. *Sampson*, 130 Ill. App. 3d at 444. In *Brant*, the defendant's conviction for failure to reduce speed to avoid an accident was reversed where the intoxicated defendant struck an illegally parked car with his motorcycle, but there was no evidence that he had been driving carelessly or that he failed to reduce his speed prior to the accident. *Brant*, 82 Ill. App. 3d at 851-52.

¶ 28 The State argues that, unlike in *Sampson* and *Brant*, in this case there was evidence of icy road conditions that required a reduced speed. The State argues that the court could infer that Ms. Rodriguez failed to reduce her speed as these conditions required. However, the icy road only offers a circumstance that suggests the accident may have occurred for reasons that had nothing to do with Ms. Rodriguez's rate of speed. Given that circumstance and that the collision resulted only in a small dent, we cannot infer that Ms. Rodriguez drove too fast for conditions simply based on the occurrence of an accident.

¶ 29 Based on this record, we find that the State did not prove that Ms. Rodriguez was driving

too fast for conditions, and we therefore reverse her conviction for that offense. Ms. Rodriguez's conviction for driving under the influence of alcohol and drugs is not challenged in this appeal and is affirmed.

¶ 30

IV. CONCLUSION

¶ 31 For the foregoing reasons, we reverse Ms. Rodriguez's conviction for driving too fast for conditions, and affirm the judgment of the trial court in all other respects.

¶ 32 Affirmed in part; reversed in part.