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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 14 CR 20763
	)	
HAITHAM HADDAD,	)	Honorable
	)	Paula M. Daleo,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE HYMAN delivered the judgment of the court.  
Justices Lavin and Pucinski concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant's conviction for unlawful restraint is affirmed over his contention that the State failed to present sufficient evidence to prove him guilty beyond a reasonable doubt. Defendant's conviction for solicitation of business on a roadway is reversed where the evidence was insufficient to prove beyond a reasonable doubt that he solicited business while standing on a highway. *Mittimus* is amended accordingly.

¶ 2 After a bench trial, defendant Haitham Haddad was convicted of unlawful restraint and solicitation of business on a roadway, and sentenced to two years' probation and time served, respectively. On appeal, he argues that the State failed to prove him guilty of either offense

beyond a reasonable doubt. We conclude that the evidence is not so unreasonable, improbable, or unsatisfactory that there remains a reasonable doubt of the defendant's guilt, and so we find it sufficient to support Haddad's conviction for unlawful restraint. As to the business solicitation offense, we agree and the State concedes, that the State failed to prove that Haddad stood on the highway for the purpose of soliciting employment or business from the victim.

¶ 3 We affirm in part, reverse in part, and correct the mittimus.

¶ 4 Background

¶ 5 Haddad was charged with one count each of unlawful restraint (720 ILCS 5/10-3 (West 2014)) and solicitation of business on a roadway (625 ILCS 5/11-1006(b) (West 2014)).

¶ 6 Laura Moore testified that on October 13, 2014, she was in Rosemont, driving southbound on I-294 when the clutch of her car "went out." Moore pulled off to the side of the road, near mile marker 37, and called her friend, Maureen Evers. A few minutes later, Evers arrived. Moore called Carry All Towing Company, a company that had towed her car before, to request a tow truck. Moore, who was from Fort Wayne, IN, was unfamiliar with the area. Evers suggested to Moore that she have her car towed to a garage in Wilmette that Evers had used.

¶ 7 Soon, a red tow truck arrived and parked behind Moore's car. Moore assumed that this was the tow truck from Carry All that she had requested and she gave the driver, whom she identified as Haddad, the address for the garage. Haddad asked Moore if she was going to ride in the truck with him, to which Moore responded that there was no reason for her to ride with him. After Moore's car was secured, Moore agreed to ride with Haddad in the tow truck, while Evers drove her car in front of the truck. Moore told Haddad to follow Evers, which he agreed to do.

Haddad also asked Moore to input the address of the garage into her phone's GPS navigation application and she did. Haddad drove southbound, following Evers.

¶ 8 Moments later, Moore's cellular phone rang. She checked the caller ID and recognized the number for Carry All Towing. Moore, believing that Haddad was the Carry All driver she requested, remarked to Haddad that he was calling her. Haddad told her to ignore the call and not to answer it because it was a wrong number. Moore declined the call, believing that the tow company was calling to inform her that the driver was on the way. Moore's phone rang again with a call from the same number. Moore looked out the window to her left and saw another tow truck driving alongside of them. The driver of the second tow truck was waving his finger to indicate "no" toward Haddad. Moore answered her phone and the person on the other end said that he was sent from Carry All to pick her up. Moore hung up the phone and realized that Haddad was not sent by Carry All. Haddad told Moore not to answer the phone and asked her where the navigation application directed them to go next. Moore recalled asking Haddad if the other company was going to charge her because she was not "quite sure how to ask him who he was." Haddad told Moore "no" and instructed her not to "worry about it."

¶ 9 At this point, Moore texted Evers that Haddad was not sent by Carry All and that she was scared. She then asked Evers to call the police. Moore did not receive a response from Evers. Shortly after, Evers, who was still driving in front of the tow truck, pulled over to the side of the road. Haddad continued to drive southbound. Moore pointed out to Haddad that Evers had pulled over and noted that they should be following her. Moore told Haddad that they needed to pull over, as well. Haddad responded that Moore had the address in her phone's navigation application and that they needed to continue because "we need to shake these guys." Moore understood him to be referring to the Carry All driver alongside them. Moore decided to send a

text message to the number that had called her twice, believing that it belonged to the tow truck driver alongside them. She texted the number, asking him to call the police. He responded that he had already called the police and instructed her to tell Haddad to pull over. She sent a text message back stating that Haddad would not stop. The Carry All driver continued to follow Haddad and Moore.

¶ 10 Haddad, who had continued driving southbound after Evers pulled over, turned off the highway. Moore denied that she directed him to turn off at that exit. Moore was unfamiliar with which exit he used, describing it only as suburban. Moore told Haddad that she wanted to be with Evers and asked him to stop the truck so that she could find her. Haddad replied that they had the address of the garage in the navigator and would meet her there. Haddad then repeatedly touched Moore's arm and told her not to be so nervous. Eventually, the truck was stopped in heavy traffic and police cars appeared from several directions. Haddad told Moore to "tell them you called me." Moore opened the truck door and ran to the Carry All tow truck that had been following them because she "knew that they were safe people."

¶ 11 On cross-examination, Moore testified that Haddad asked her to ride with him and provide navigation with her cellular phone. She acknowledged that, while she had a cellular phone, she did not call 9-1-1. She confirmed that she did not pay Haddad, nor did she negotiate a fee for his services. Moore stated that she did not remember whether she told the responding officers that she told Haddad to pull over because she did not want to be charged twice. Moore testified that she "might have" said that to the officers.

¶ 12 On redirect-examination, Moore explained that she did not call 9-1-1 because she was in close proximity to Haddad and was scared. She denied that she provided Haddad with any navigation directions after he got off I-294.

¶ 13 Evers testified that she was heading home after having lunch with Moore when Moore called to inform her that her car had broken down on 294. Evers drove to Moore's location and parked in front of her. Evers suggested to Moore that she take her car to an auto shop in Wilmette. Moore agreed and then called a tow truck driver. Moore began to transfer items from her car into Evers car when a red tow truck arrived and parked behind Moore's car. Evers identified Haddad as the driver of the tow truck. Evers gave Moore a slip of paper with the address of the auto shop on it and moved her car so that Haddad could load Moore's car onto the flatbed of his truck. Evers saw Moore hand the address to Haddad and then join him in his truck. Evers started to drive toward the auto shop and Haddad followed.

¶ 14 About five to seven minutes later, Evers received a text message from Moore informing her that this was not the tow truck that she had called and asking Evers to call the police. Evers called 9-1-1 and provided the operator with their location. After passing the toll plaza, the 9-1-1 operator told Evers to pull over onto the shoulder to see if Haddad would do the same. After Evers pulled over, Haddad continued driving southbound on 294. At this point, Evers saw that a second tow truck was following immediately behind Haddad. Evers then proceeded to follow both tow trucks. Shortly after Evers started following the trucks, Haddad exited 294 onto Cermak Road. Evers continued to follow them until they reached Wolf Road, at which point the two trucks turned left. Evers could not follow the trucks because the light had turned red. She waited for the light to change then made the left turn. Evers could see the two trucks ahead of her. They turned right onto Roosevelt Road and Evers followed. After making the turn, Evers saw police cars surround Haddad's tow truck. Moore jumped out of Haddad's truck and ran toward the driver of the second tow truck.

¶ 15 Pete Himargios testified that he runs a towing business called Carry All Towing Company. Himargios received a call requesting a tow for a stranded red Volkswagen on the southbound lanes of 294 between mile markers 35 and 37. Himargios drove to that location, but did not see the stranded vehicle. He continued driving southbound on 294 and saw a car matching the description on the back of another tow truck. Himargios called the number that requested the tow but there was no answer. He positioned his truck along the left side of the other tow truck and honked his horn. He called again and Moore answered. He informed Moore that he was the tow truck driver that she called. Himargios described Moore as sounding confused. She responded that she thought the truck that she was in was the driver that she called.

¶ 16 Himargios continued following the tow truck. As he did so, he received a text from Moore asking him to continue following the truck because she did not know where the driver was taking her. He responded that he would. Next, the truck turned off at Cermak Road, as did Himargios. After the exit, Moore contacted Himargios and asked him to call the police. He called 9-1-1 and provided the operator with his location. Himargios sped up and positioned his truck parallel to the truck carrying Moore. The driver of the other truck swerved toward Himargios, attempting to “block” him. Himargios then drove behind Haddad’s truck. He continued following Haddad until the police cars arrived. At that point, Moore got out of Haddad’s truck and ran toward his. She thanked him and asked him to stay with her.

¶ 17 Haddad testified that he has operated a tow truck business for 20 years. He was driving his truck when he saw Moore’s car on the side of the road with its hood up. Haddad pulled over and asked Moore if she needed help. Moore replied that she needed her car towed to a mechanic. Haddad loaded Moore’s car onto his flatbed. He told Moore that there would be a \$75 charge for hooking up the car and then it would cost \$4 per mile for the tow. Moore agreed to the price.

Haddad told Moore to ride with him in the truck so that she could direct him to the mechanic. Moore input the address into her phone's navigation application and provided Haddad with directions. He proceeded to drive, following Moore's directions, until his tow truck was surrounded by police cars.

¶ 18 On cross-examination, Haddad acknowledged that he came upon Moore by chance and that no one called him or requested a tow. Moore agreed to his fee, but she did not make any payment upfront. Haddad admitted that Moore told him when she got into the truck to follow Evers. When Haddad saw Evers pull over, he continued driving because there were cars behind him, one of which was another tow truck. Haddad acknowledged that Moore received a call and asked him if he was calling her. He responded that it was not him. Haddad stated that Moore made and received other phone calls during the ride. He also saw her sending text messages.

¶ 19 Based on this evidence, the court found Haddad guilty of both charges. In announcing its decision, the court stated that Haddad "committed an unlawful act by soliciting their business on the roadway, by walking up and saying, do you need help." In concluding that Haddad committed unlawful restraint, the court found that Haddad, after he picked up Moore, came to understand that another tow truck had been called. The court stated that Haddad realized that he was "caught," but was determined "to keep the tow no matter what," and ignored Moore's requests to pull over and find Evers. The court concluded that it had "no choice" but to find him guilty of both crimes. The court then sentenced Haddad to two years' probation for unlawful restraint and to time served for solicitation of business on a roadway.

¶ 20 On appeal, Haddad challenges the sufficiency of the evidence to sustain his convictions.

¶ 21 Analysis

¶ 22 The question before us is: after viewing the evidence in the light most favorable to the State, could any rational trier of fact find the essential elements of the crime beyond a reasonable doubt? See *People v. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). All reasonable inferences from the record must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42. The trier of fact resolves conflicts in the testimony, weighs the evidence, and draws reasonable inferences from the facts. *Brown*, 2013 IL 114196, ¶ 48. We will not substitute our judgment for that of the trier of fact on issues involving the weight of the evidence or the credibility of the witnesses. *Id.* A defendant's conviction will not be overturned unless the evidence is so unreasonable, improbable, or unsatisfactory that there remains a reasonable doubt of the defendant's guilt. *Id.*

¶ 23 Unlawful Restraint

¶ 24 Haddad first argues that the State failed to prove him guilty of unlawful restraint because Moore's testimony failed to establish that she unequivocally told him that she wanted to leave his tow truck.

¶ 25 To establish that Haddad committed unlawful restraint, the State had to prove that Haddad "knowingly without legal authority detained [Moore]." See 720 ILCS 5/10-3 (West 2014). "The gist of unlawful restraint is the detention of a person by some conduct which prevents [her] from moving from one place to another." *People v. Brians*, 315 Ill. App. 3d 162, 174 (2000). A person "acts knowingly" if "he [or she] is consciously aware that his [or her] conduct is of such nature" that it is "practically certain" to cause the result proscribed by the offense. 720 ILCS 5/4-5(a), (b) (West 2014).

¶ 26 After viewing the evidence in the light most favorable to the State, we conclude that the evidence was sufficient to support Haddad's conviction for unlawful restraint. The record shows



that Moore entered Haddad's truck and accepted a ride from him because she believed that he was the tow truck driver from Carry All. Moore instructed Haddad to follow her friend, Evers, who was driving in front of them. Haddad agreed to follow Evers. During the ride, Moore learned that Haddad was not from Carry All. She saw Himargios, the driver from Carry All, driving next to Haddad and making hand gestures toward him. Moore mentioned the other tow truck to Haddad and expressed concern about being charged twice. Haddad instructed her not to worry about it. When Evers, who Haddad had been following, pulled over, Moore asked Haddad to do the same because they were meant to be following her. Haddad responded that they could follow the navigation on Moore's phone and then told Moore that they had to "shake" Himargios. At this point, Moore stopped providing Haddad with directions from her phone. Haddad proceeded to exit at Cermak Road. Moore repeated her request for Haddad to pull over and find Evers. Haddad again refused Moore's request. This evidence, and the reasonable inferences from the evidence, supports the conclusion that Haddad prevented Moore from moving from one place to another, and thus supports his conviction for unlawful restraint. See *Brials*, 315 Ill. App. 3d at 174 ("The gist of unlawful restraint is the detention of a person by some conduct which prevents [him or her] from moving from one place to another.").

¶ 27 In reaching this conclusion, we are not persuaded by Haddad's argument that he did not knowingly detain Moore because her repeated requests for him to pull over and find Evers did not convey her desire to leave the truck. Haddad's argument is unavailing because the offense of unlawful restraint requires only that Haddad knowingly detain Moore without authority. Put another way, Haddad had to be "consciously aware that his conduct is of such nature" that it is "practically certain" to cause Moore to be detained without justification. 720 ILCS 5/4-5(a), (b) (West 2014). Although Moore voluntarily entered Haddad's tow truck, she instructed him to

follow Evers. When Evers pulled over, Moore requested Haddad to pull over too. Haddad refused. At the time Haddad refused Moore's requests to pull over, he was aware that Moore had called another tow truck before his arrival, and that the driver of that truck was following him and in contact with Moore. Haddad also was aware that Moore was "nervous." Based on this evidence, the trial court concluded that Haddad was determined to keep Moore's business "no matter what," and, to accomplish this goal, detained her. As mentioned, this court will reverse a conviction only where the evidence is so unreasonable, improbable, or unsatisfactory that there remains a reasonable doubt of the defendant's guilt. This is not one of those cases.

¶ 28 Solicitation of Business

¶ 29 Haddad next argues, and the State concedes, that he was not proven guilty of solicitation of business on a roadway beyond a reasonable doubt. Although the parties agree that the evidence was insufficient to sustain Haddad's conviction for this offense, they disagree as to what precisely the State failed to prove. Haddad contends that the State failed to prove him guilty of solicitation of business on a roadway because the statute applies only to pedestrians soliciting business and not to motorists like him. The State responds that the evidence showed that Haddad got out of his truck and approached Moore, which made him a pedestrian. But, the State maintains that it failed to present sufficient evidence that he solicited business from Moore.

¶ 30 To sustain Haddad's conviction for solicitation of business on a roadway, the State had to prove that Haddad stood on a highway "for the purpose of soliciting employment or business from the occupant of any vehicle." 625 ILCS 5/11-1006 (West 2014).

¶ 31 After viewing the evidence in the light most favorable to the State, we conclude that the State failed to prove that Haddad stood on the highway for the purpose of soliciting employment or business from Moore. The evidence shows that Haddad, who owns a towing company, came

upon Moore's stranded vehicle by chance while driving southbound on the highway. He drove to Moore and Evers in his tow truck and asked if they needed help. They replied that they did and told him the address where Moore wanted her car transported. According to Moore, they never discussed a fee or negotiated a price. Haddad testified that, although he did not charge them in advance, he did inform Moore and Evers that it would cost \$75 to hook up Moore's car and then it would cost \$4 per mile to transport. The testimony, however, does not indicate where this discussion took place or if Haddad got out his truck. Under the plain language of the statute, Haddad had to have been standing on the roadway for his solicitation of business to be unlawful. Without any evidence that this discussion took place while Haddad was standing on the highway, we conclude that there remains a reasonable doubt of his guilt. Accordingly, we reverse his conviction for solicitation of business on a roadway.

¶ 32 Under Supreme Court Rule 615(b), we order the clerk of the circuit court to correct the mittimus accordingly.

¶ 33 Affirmed in part; reversed in part; mittimus corrected.