

NOTICE

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2018 IL App (4th) 150611-U

NO. 4-15-0611

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

January 16, 2018

Carla Bender

4th District Appellate Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Sangamon County
LASHANTA C. DANIELS,)	No. 13DT128
Defendant-Appellant.)	
)	Honorable
)	Jack D. Davis II,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Harris and Justice DeArmond concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, finding the evidence at trial sufficient to allow the jury to convict defendant.

¶ 2 Following a May 2015 trial, a jury found defendant, Lashanta C. Daniels, guilty of driving under the influence of alcohol (DUI) (625 ILCS 5/11-501(a)(2) (West 2012)), driving while license revoked (DWR) (625 ILCS 5/6-303(a) (West 2012)), and operating an uninsured motor vehicle (625 ILCS 5/3-707(a) (West 2012)). In June 2015, defendant filed a motion to vacate judgment and a motion for a new trial. The trial court denied both motions and sentenced defendant to 12 months of probation. In July 2015, defendant filed a motion to reconsider sentence, which the court denied. Defendant appeals, arguing the State failed to prove beyond a reasonable doubt that defendant drove a GMC Yukon in the early morning hours of February 10, 2013; thus, her convictions cannot stand. We disagree and affirm.

¶ 3

I. BACKGROUND

¶ 4 In February 2013, the State charged defendant with DUI of alcohol (625 ILCS 5/11-501(a)(2) (West 2012)), DWR (625 ILCS 5/6-303(a) (West 2012)), and operating an uninsured vehicle (625 ILCS 5/3-707(a) (West 2012)). The charges alleged that on February 10, 2013, defendant committed the offenses while driving a GMC Yukon.

¶ 5

A. Defendant's Jury Trial

¶ 6 Below, we summarize the testimony elicited during the trial of this matter.

¶ 7

1. *Officer Larson's Testimony*

¶ 8 Officer Jeffrey Larson testified that on February 10, 2013, he traveled to the intersection of Ash and Taylor in Springfield, Illinois, in response to a traffic accident. After allowing a motorist involved in the accident to call someone to bring proof of insurance to the scene, Officer Larson kept an eye out for someone to arrive with the insurance card.

¶ 9

Eventually, Officer Larson noticed a vehicle pull into a parking lot on the southeast corner of Ash and Taylor and observed a person step out of the driver side door. Officer Larson indicated the distance between the vehicle and him to be 50 yards. Officer Larson then informed Officer Tamara Walcher that defendant might be the person with the insurance card, causing Officer Walcher to approach defendant to speak with her. Officer Larson made an in-court identification of the defendant as the person he saw driving the vehicle.

¶ 10

On cross-examination, Officer Larson admitted an absence of sun at the time he observed the defendant, but he pointed out the observation occurred on a lighted roadway. According to Officer Larson, he did not pay attention to the make of the vehicle at the time and he conceded not mentioning the defendant in his accident report. Finally, Officer Larson indicated he did not prepare a supplement to his report.

¶ 11 On redirect, Officer Larson suggested he did not complete a supplemental report because Officer Walcher, who approached and gathered information from defendant, prepared a supplemental report. When asked if there was any doubt in his mind about the defendant sitting in court being the person he saw on the morning of February 10, 2013, Officer Larson stated, “I’m a hundred percent sure it’s the same person.”

¶ 12 *2. Officer Walcher’s Testimony*

¶ 13 Officer Walcher testified that on February 10, 2013, she, along with Officer Larson, responded to a traffic accident at the intersection of Taylor and Ash. Upon arrival, the scene was chaotic; however, the officers were able to direct everyone back to the vehicles in which they arrived. While she and Officer Larson were waiting for a person to arrive with an insurance card, she observed a GMC Yukon pull up to the scene of the accident.

¶ 14 The GMC Yukon parked about 20 to 25 feet from her. Initially, Officer Walcher thought the GMC Yukon might strike her. Officer Walcher stated she never lost sight of the driver at any point. According to the Officer, the driver “poured” herself out of the vehicle. Officer Walcher identified the driver of the GMC Yukon to be a black female. Because Officer Walcher thought the driver had the insurance card, she approached her. Officer Walcher identified defendant as the person who drove the GMC Yukon on February 10, 2013.

¶ 15 While talking to defendant, Officer Walcher noticed defendant showed indicators of intoxication, including slurred speech, the manner in which the defendant exited the vehicle, and difficulty with balance after exiting the vehicle. In light of the fact that she saw defendant pull up and exit the GMC Yukon, Officer Walcher never asked defendant if she drove to the scene. After determining defendant was not the person with the insurance card, Officer Walcher

redirected her attention to assisting her partner and asked another officer then on scene, DUI Officer Robert Jones, to take over with defendant.

¶ 16 On cross-examination, counsel for defendant questioned Officer Walcher about differences between her testimony and her police report. Specifically, defense counsel questioned why the police report made no mention of defendant almost striking the officer, “pouring” herself out of the vehicle, or stumbling. Walcher indicated she testified to what she recalled but that the language was not the exact same as in her report. Defense counsel confirmed that Officer Walcher did not observe, while interacting with defendant, the smell of alcohol, bloodshot eyes, glassy eyes, or heavy-lidded eyes. Officer Walcher testified the scene was chaotic upon arrival but that at no time did she become distracted while talking to defendant.

¶ 17 On redirect, Officer Walcher testified that when writing a report, police officers, including her, do not write down every single detail that an officer can remember.

¶ 18 *3. Officer Jones’s Testimony*

¶ 19 Officer Jones testified that he was part of the DUI enforcement branch of the Springfield police department. On February 10, 2013, Officer Jones responded to a traffic accident with injuries. Upon arrival at the scene, Officer Jones activated his vehicle camera. Officer Jones spoke with Officer Larson and Officer Walcher about the nature of the accident. Neither officer suspected the driver of either vehicle involved in the accident of impairment. At that point, Officer Jones did not believe there to be a DUI, so he shut down his camera and began assisting emergency workers in loading the injured into ambulances. While assisting, Officer Jones spoke to a woman, Cheryl Miller, who claimed to be a passenger in one of the vehicles involved in the accident. Miller appeared highly intoxicated and interfered with emergency efforts.

¶ 20 Officer Jones testified that Officer Walcher directed the attention of Jones to defendant. While he did not remember exactly where he approached defendant, he initially believed he saw defendant drive up and exit the GMC Yukon. He described defendant's eyes as bloodshot, glassy, and heavy-lidded. Defendant's speech was notably slow and slurred. Officer Jones smelled a strong odor of an alcoholic beverage coming from defendant's breath. He also observed defendant swaying and slowly fumbling through her personal items to find her identification (ID) card. Defendant failed to provide proof of insurance and Officer Jones determined defendant had a revoked license. Based on the developing situation and his observations, Officer Jones moved his vehicle into view and activated his camera.

¶ 21 Defendant denied driving and instead identified Cheryl Miller as the driver of the GMC Yukon. According to defendant, she had one shot at a local bar. Officer Jones asked defendant to perform a field sobriety test and defendant ignored him. Ultimately, Officer Jones arrested defendant for DUI. (625 ILCS 5/11-501(a)(2) (West 2012)). Defendant declined to submit to a Breathalyzer test.

¶ 22 In light of defendant's continuing and strenuous denials of driving, Officer Jones, after arresting defendant, reviewed his squad car video recording and realized that defendant and the GMC Yukon were at the scene before he arrived.

¶ 23 On cross-examination, Officer Jones admitted that he failed to turn his vehicle camera on in time to capture his questioning of defendant. He also agreed his assessment of the indicators of impairment displayed by defendant were subjective. He failed to deny his report lacked information on multiple individuals, including Cheryl Miller, who approached him at the scene and said defendant did not drive the GMC Yukon. He indicated he did consider, when arresting defendant, his initial impression that he observed defendant arrive.

¶ 24 On redirect, Officer Jones stated a DUI report is an addendum to a traffic report and noted that contact information for Cheryl Miller and others from the scene would be in the traffic report completed by Officer Larson or Walcher. Officer Jones pointed out that when investigating a potential DUI he looks at the totality of the circumstances, meaning he considers all the information available. Officer Jones believed defendant to be impaired on the day in question. Upon this evidence, the jury found defendant guilty on all three counts.

¶ 25 B. Posttrial Proceedings

¶ 26 Subsequent to trial, defendant filed a motion to vacate judgment or in the alternative for a new trial. Counsel for defendant argued in part, that although there existed sufficient evidence for the jury to find defendant drove the GMC Yukon, sufficient evidence did not show defendant operated the vehicle while under the influence of alcohol. Following argument on the motion, the trial court denied the motion and set the matter for sentencing. Ultimately, the court sentenced defendant to 12 months' probation and 180 days in the Sangamon County jail. In July 2015, defendant filed a motion to reconsider sentence, which the court denied.

¶ 27 This appeal followed.

¶ 28 II. ANALYSIS

¶ 29 On appeal, defendant argues the State failed to meet its burden of proof when it failed to prove, beyond a reasonable doubt, that she drove a vehicle on February 10, 2013. The State maintains that in this credibility contest the jury, as the fact finder, believed the officers and properly convicted defendant of all charges. We agree with the State.

¶ 30 When a reviewing court considers a challenge to the sufficiency of the evidence, it must determine, “ ‘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.’ ” (Emphasis omitted.) *People v. Cunningham*, 212 Ill. 2d 274, 278, 818 N.E.2d 304, 307 (2004) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). “It is the responsibility of the trier of fact to resolve conflicts in the testimony, weigh the evidence, and draw reasonable inferences from the facts.” *People v. Bradford*, 2016 IL 118674, ¶ 12, 50 N.E.3d 1112. “Accordingly, a reviewing court will not substitute its judgment for the fact finder on questions dealing with the weight of the evidence or the credibility of the witnesses.” *Id.* When, however, the evidence is so improbable and unsatisfactory that it creates a reasonable doubt as to defendant’s guilt, the conviction must be overturned. *Id.*

¶ 31 Defendant argues the testimony of the various officers lacked consistency and credibility because the officers failed to testify to the same timeline of events. Defendant notes that some officers, more than two years after the arrest of defendant, testified to details absent from their police reports. According to defendant, this casts doubt on the identification of defendant as the driver of the GMC Yukon.

¶ 32 In support of her argument, defendant relies on *People v. Smith*, 185 Ill. 2d 532, 708 N.E.2d 365 (1999), where our supreme court reversed the defendant’s conviction, when the sole witness linking the defendant to the crime lacked credibility and gave testimony riddled with inconsistencies. We find *Smith* distinguishable. In *Smith*, the defense used written statements signed by the sole witness identifying defendant as the shooter to impeach that sole witness. Also, the account of the crime given by the sole witness identifying the defendant varied wildly from accounts given by other witnesses. Additionally, prior to the sole witness coming forward with her statement implicating the defendant, the police held and questioned her sister under the theory that the sister supplied a handgun to a man she dated, who used the gun to shoot the

victim. Finally, the sole witness admitted regular drug use around the time of the crime. This case presents no such failings.

¶ 33 It is true, Officer Jones mistakenly thought he watched defendant arrive. However, Officer Jones did not solely base his arrest on his unfounded belief. Instead, he also relied upon the observations and statements of Officer Walcher, as well as his own impressions of defendant.

¶ 34 Additionally, Officers Larson and Walcher recounted watching defendant get out of the driver side door of the GMC Yukon. On this critical point, Officers Larson and Walcher gave consistent testimony that never changed. We are mindful, “the testimony of a single witness, if positive and credible, is sufficient to convict, even though it is contradicted by the defendant.” *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228, 920 N.E.2d 233, 242 (2009). Defendant focuses on the distance and darkness present when Officer Larson observed her. However, identification of a defendant by a single witness is sufficient to sustain a conviction if the witness viewed defendant under the circumstances that permitted a positive identification. *People v. Slim*, 127 Ill. 2d 302, 307, 537 N.E.2d 317, 319 (1989).

¶ 35 In assessing identification testimony, a court considers (1) the witness’s opportunity to view the offender at the time of the offense; (2) the witness’s degree of attention; (3) the accuracy of the witness’s prior description of the offender; (4) the witness’s level of certainty at the identification; and (5) the length of time between the offense and the identification. *People v. Lewis*, 165 Ill. 2d 305, 356, 651 N.E.2d 72, 96 (1995).

¶ 36 In applying the factors here: (1) two officers observed defendant on a lighted roadway as she exited the vehicle; (2) the officers’ degree of attention was focused on defendant because they were waiting for someone to arrive at the scene with another driver’s insurance

card; (3) there was no prior description of defendant; (4) Officer Larson testified, “I’m a hundred percent sure it’s the same person,” that defendant was the driver; and (5) two officers observed defendant when she committed the offense. Significant time did not elapse between when the offense took place and the officers identified defendant. Both officers provided credible testimony that defendant drove the GMC Yukon on February 10, 2013.

¶ 37 Defendant also asserts that Officer Larson and Officer Walcher were inconsistent in their timeline compared to Officer Jones’s timeline of the night. Officer Larson and Officer Walcher testified that Officer Walcher immediately spoke with defendant after her arrival, with the belief that she was bringing an insurance card to the scene. When defendant was not the person with the card, Officer Walcher turned defendant over to Officer Jones. Officer Jones then testified that upon arrival to the scene of the accident he spoke with the officers and determined there was not a DUI issue with the people involved in the accident, so he helped emergency services. Officer Walcher later told Officer Jones about defendant. The discrepancy of time between the testimonies is inconsequential where none of the officers stated an exact time that Officer Jones began his contact with defendant. Rather it was at some point shortly after Officer Jones arrived on the scene. In the end, the jury appropriately performed its role as fact finder and determiner of credibility.

¶ 38 Accordingly, we conclude the State presented sufficient evidence for the jury to conclude, beyond a reasonable doubt, that defendant drove the vehicle on February 10, 2013, and therefore find the evidence sufficient to sustain convictions on all counts.

¶ 39

III. CONCLUSION

¶ 40 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2016).

¶ 41 Affirmed.