

No. 1-16-0247

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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. 15 CR 1543 |
| |) | |
| HARVEY DAVIS, |) | Honorable |
| |) | William G. Lacy, |
| Defendant-Appellant. |) | Judge, presiding. |

PRESIDING JUSTICE PIERCE delivered the judgment of the court.
Justices Griffin and Walker concurred in the judgment.

ORDER

- ¶ 1 *Held:* We affirm defendant's conviction for aggravated fleeing or attempting to elude a peace officer over his contention that the evidence was insufficient.
- ¶ 2 Following a bench trial, defendant Harvey Davis was convicted of aggravated fleeing or attempting to elude a peace officer (625 ILCS 5/11-204.1(a)(4) (West 2014)), and sentenced to an extended term of four years' imprisonment. On appeal, defendant contends that the evidence

was insufficient to prove him guilty beyond a reasonable doubt. For the following reasons, we affirm.

¶ 3 At trial, the sole witness, Chicago police officer Peter Chambers, testified that on January 1, 2015, at around 1:38 a.m., he and his partner, Ted Jozefczek, were in an unmarked police vehicle driving on Central Avenue. Chambers was in the passenger seat. The officers were in uniform, which included a duty belt, “outer carrier star,” and radio. They also wore department authorized sweaters under their bulletproof vests. The sweaters had the police insignia on both arms. Although their vehicle was unmarked, it had emergency lights. Those lights included oscillating headlights, emergency lights in the front windshield behind the rearview mirror, lights on the side mirrors on each side of the car, and oscillating lights in the back passenger windows.

¶ 4 While at a stop light, Chambers observed a Lexus drive through a red light at the intersection of Central and Corcoran Place. The officers followed the Lexus, and Chambers observed it drive through another red light at Central and Lake Street. Jozefczek, the driver, continued following the Lexus and activated their vehicle’s emergency equipment, which included a siren and oscillating lights. The Lexus turned onto West Race Avenue and pulled over. Chambers and Jozefczek exited their vehicle and approached the Lexus. Chambers walked to the passenger side, and Jozefczek walked to the driver’s side. Chambers made eye contact with the driver, whom he identified as defendant.

¶ 5 Before they could announce their office, defendant drove away down an alley on Central. Chambers and Jozefczek radioed for backup and ran back to their vehicle to pursue defendant. They re-activated their lights. Within 20 seconds of starting the pursuit, several backup police

vehicles arrived, consisting of both marked and unmarked cars. All of the backup vehicles had lights and sirens activated.

¶ 6 During the pursuit, defendant drove southbound on Central and eastbound on Lake. He made several turns but did not use turn signals, and drove anywhere from 35 to 50 miles per hour. Defendant drove through a stop sign at Pine Avenue, and continued down Lake, which turned into Kinzie Street. Kinzie was a one-way street, and defendant drove down the street in the wrong direction. Defendant continued driving through numerous alleys and streets before eventually driving through another stop sign at the intersection of Ferdinand Street and Long Avenue. Throughout the pursuit, Chambers and Jozefczek were approximately 15 to 30 feet behind defendant's Lexus. Additional backup vehicles with lights and sirens activated also followed defendant.

¶ 7 Defendant ultimately stopped at 5300 West Race. Chambers did not lose sight of him during the pursuit. Chambers approached the Lexus and ordered defendant out of the vehicle for officer safety. Defendant did not comply, so Chambers attempted to remove him. Defendant continued to ignore Chambers' verbal commands and attempted to pull himself away. Eventually, Chambers arrested defendant and transported him to the police station.

¶ 8 After he was informed of his *Miranda* rights, defendant stated that he did not have a license, he had just gotten the Lexus and did not want it taken away, and he knew he should not have "taken off." Chambers issued defendant tickets for various traffic infractions, and learned defendant's license was revoked.

¶ 9 On cross-examination, Chambers testified that the unmarked vehicle the officers were in was a single color, had an "M" license plate, and did not say "Chicago Police" on it. He wore his

authorized sweater under his bulletproof vest, which read “police,” along with his star number and unit. His sweater had the same patches as his police uniform, and his vest was the same vest that he wore in the summer. There was no video of the pursuit, and no photographs of how the officers were dressed on the day in question. The backup vehicles did not get between Chambers’ vehicle and defendant’s Lexus.

¶ 10 The State introduced into evidence a driver’s abstract for defendant, which showed that his license was revoked on January 1, 2015.

¶ 11 Following arguments, the court found defendant guilty of aggravated fleeing or attempting to elude a peace officer. The court found Chambers’ testimony credible, and that the evidence was overwhelming that defendant knew the officers were police officers. It noted that the officers wore police uniforms, with police-authorized sweaters that displayed the police insignia on the sleeves. Further, the court noted that the testimony showed the lights and sirens were activated, “otherwise why would the defendant bother to pull over for these two individuals” driving an unmarked car with an “M” license plate. The court finally noted that after defendant fled, backup officers in marked police cars with activated lights and sirens joined the chase.

¶ 12 Defendant filed a motion for new trial, arguing the State failed to prove him guilty beyond a reasonable doubt, which the court denied. The court sentenced defendant to an extended term of four years’ imprisonment. The court subsequently denied defendant’s motion to reduce sentence.

¶ 13 On appeal, defendant argues that the State failed to prove him guilty beyond a reasonable doubt of aggravated fleeing or eluding a police officer because the evidence did not establish that

the officers were in uniform or the unmarked police vehicle's lights were red or blue, as required by statute.

¶ 14 When reviewing a challenge to the sufficiency of the evidence, we inquire “ ‘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. Davison*, 233 Ill. 2d 30, 43 (2009) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). We draw all reasonable inferences in favor of the State (*Davison*, 233 Ill. 2d at 43), and we do not retry the defendant (*People v. Collins*, 106 Ill. 2d 237, 261 (1985)). We will not overturn a criminal conviction “unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt.” *People v. Givens*, 237 Ill. 2d 311, 334 (2010).

¶ 15 To convict defendant of aggravated fleeing and eluding a peace officer in this case, the State was required to prove, in relevant part, that defendant, after being given an authorized visual or audible signal as described in section 11-204 of the Illinois Vehicle Code, fled or attempted to elude a peace officer, and such flight or attempt to elude involved disobedience of two or more official traffic control devices. 625 ILCS 5/11-204.1(a)(4) (West 2014).

¶ 16 With regard to the authorized visual or audible signal, section 11-204, in pertinent part, instructs,

“The signal given by the peace officer may be by hand, voice, siren, red or blue light. Provided, the officer giving such signal shall be in police uniform, and, if driving a vehicle, such vehicle shall display illuminated oscillating, rotating or flashing red or blue

lights which when used in conjunction with an audible horn or siren would indicate the vehicle to be an official police vehicle.” 625 ILCS 5/11-204(a) (West 2014).

¶ 17 Here, the evidence showed that defendant received an authorized signal from police officers to pull over and then attempted to flee from the officers and in the process, disobeyed two or more traffic control devices. After defendant ran a red light, Officer Chambers and his partner pulled defendant over by activating their oscillating lights and siren. As they approached defendant’s vehicle, Chambers made eye contact with defendant. Both officers were wearing police uniforms, police-authorized sweaters with police patches displayed, duty belts, and bulletproof vests. The patches displayed on the sleeves of the sweaters were the Chicago flag and police insignia. Chambers clarified that the bulletproof vest was the same vest that he wears year-round and actually read “police.” Thus, contrary to defendant’s assertion, the evidence established beyond a reasonable doubt that the officers were in uniform.

¶ 18 Further, after initially pulling over, defendant abruptly fled the scene. The officers called for backup, activated their emergency equipment, which indicated that the car was a police vehicle, and pursued defendant. The backup officers, in both marked and unmarked police cars, joined the pursuit within 20 seconds. Defendant, while being pursued by multiple police vehicles with activated oscillating lights and sirens, made several turns without signaling, drove through a stop sign at Lake and Pine, proceeded the wrong way down a one-way street, and drove through a second stop sign on Ferdinand and Long before finally pulling over. We find this evidence sufficient to enable a rational trier of fact to find the essential elements of aggravated fleeing or attempting to elude a peace officer. See *Jackson*, 443 U.S. at 319.

¶ 19 Nevertheless, defendant argues that, because Chambers failed to specify that the emergency oscillating lights he activated were red or blue, as required by section 11-204(a), the evidence was insufficient to show that the officers gave the requisite authorized signal. Defendant maintains that whether he knew that the officers were police is irrelevant; rather, he contends that the absence of testimony regarding the color of the lights means that the evidence did not meet the specific requirements of the statute, and was therefore insufficient.

¶ 20 We are unpersuaded by defendant's contention. We again note that all reasonable inferences must be drawn in favor of the State. *Davison*, 233 Ill. 2d at 43. Chambers testified that the vehicle they were in was equipped with emergency lights and that, after starting the pursuit, they activated the emergency equipment, which included a siren and oscillating lights. The plain meaning of the term "emergency lights" corresponds with the type of lights described in section 11-204, especially because they were located on a police vehicle. Moreover, the term "emergency lights" has been used to describe lights on police vehicles in various contexts. See, e.g., 20 ILCS 2610/30(a) (West 2014) (defining "emergency lights" as "oscillating, rotating, or flashing lights on patrol vehicles"); see also *People v. Johnson*, 408 Ill. App. 3d 107, 124-25 (2010) (noting that the officers in an unmarked police car "activated the police vehicle's emergency lights to signal the driver *** to pull over"). Thus, under the facts of this case, we find that the evidence was sufficient to enable a rational trier of fact to reasonably infer that the vehicle's "emergency lights" were the type referenced in section 11-204. See *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009) (it is within the province of the trier of fact "to weigh evidence and draw reasonable inferences therefrom").

¶ 21 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

No. 1-16-0247

¶ 22 Affirmed.