2019 IL App (1st) 171156-U

No. 1-17-1156

Order filed July 23, 2019

Second Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 16 CR 13210
	)	
DEANDRE NORFLEET,	)	Honorable
	)	Nicholas Ford,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Lavin and Justice Mason concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's conviction for resisting or obstructing a peace officer is affirmed over his challenge to the sufficiency of the evidence.

¶ 2 Following a bench trial, defendant Deandre Norfleet was found guilty of aggravated battery to a peace officer and resisting or obstructing a peace officer, and sentenced to concurrent terms of four years' imprisonment. On appeal, defendant contends his conviction for resisting or obstructing a peace officer should be reversed because the State did not prove beyond a

reasonable doubt that he knew the officers were attempting to arrest him at the time of the incident. We affirm.

¶ 3 Defendant was charged by indictment with aggravated battery (720 ILCS 5/12-3.05(d)(4)(i)-(iii) (West Supp. 2015)) of Chicago police officers James Murray (counts I-III) and Jordan Goss (counts IV-VI). The indictment also alleged that defendant resisted or obstructed Murray (count VII) and Goss (count VIII) (720 ILCS 5/31-1(a-7) (West 2016)).

¶ 4 At trial, Goss testified that around 12:35 p.m. on July 27, 2016, he and Murray were dispatched to the 1000 block of North Lockwood Avenue. Goss was wearing his uniform, comprising a blue shirt with the Chicago Police Department insignia patch on one of the sleeves, a bulletproof vest labeled "Police," and an equipment belt, with a weapon, taser, handcuffs, and pepper spray. His star was attached to his uniform. The officers conducted a wellbeing check with Aqeysena Dukes, who reported that her ex-boyfriend, defendant, had battered her.[1] She gave them a description of defendant, and stated that he frequented the corner of Thomas and Lawler Streets.

¶ 5 The officers drove to that intersection, where Goss saw defendant exit a vehicle and cross the street in front of their police vehicle. The officers "announced [their] office" and asked defendant to approach their vehicle. Goss then performed a protective pat-down for weapons, recovered defendant's "ID," and verified that defendant was the person Dukes had named. Goss attempted to arrest defendant for the domestic battery by handcuffing him, but defendant "punched [him] in the side of the head." Goss tackled defendant to the ground as Murray struck defendant with a wooden baton. Once on the ground, defendant punched Goss "in the face

[1] The court stated that it admitted Dukes's statement regarding the battery to show the officers' course of conduct, but not for proof of the matter asserted.

between two to four times" while Goss attempted to "bend the defendant's arm back to get him in handcuffs." Goss stated that defendant was noncompliant, flailing his arms, hitting him, and pushing Murray. Then, defendant broke free and fled. The officers chased him for about two blocks, but lost sight of him. Afterwards, Goss and Murray went to the emergency room at Loretto Hospital, where Goss was treated for a head bruise, a cut on his thumb, and two scrapes on both his knees, and Murray was treated for a back injury.

¶ 6 On cross-examination, Goss clarified that Murray had his hands on defendant, "holding him towards" their police vehicle, when Goss performed the protective pat-down, which was before he confirmed defendant's identity. The entire incident lasted 20 to 30 seconds.

¶ 7 Murray testified that on July 27, 2016, he was in uniform, wearing "dark blue pants, light blue police shirt with police patches, [his] black vest" with a star, and his duty belt with a gun and handcuffs. When Murray and Goss approached defendant at Thomas and Lawler, Murray announced he was a Chicago police officer and "took [defendant's] left hand and placed it on top of the front of the squadrol." Goss conducted a protective pat-down, and found defendant's "ID." Once Murray "knew that [they] had the suspect from the domestic by name," he yelled "cuff him," and felt defendant "tense up." Defendant "swung to the right," escaped the grip Murray had on his left wrist, and struck Goss in the face. When Goss and defendant fell to the ground, Murray "grabbed defendant by the belt area and struck him three times with [his] wood baton" and then "one more time in the *** back near the shoulder." The State asked whether defendant had "come in contact with [Murray's] body," and Murray responded, "[n]o." Defendant fled down the street before the officers could arrest him. Murray sustained a lower back strain from the incident and could not return to work for 2½ months.

¶ 8 On cross-examination, Murray testified that he did not fall to the ground during the incident. On re-direct examination, he reiterated that he and Goss looked for defendant in connection with the domestic battery because he matched the description Dukes gave them and was in the area she indicated.

¶ 9 The State entered a stipulation between the parties that Chicago police officer Magiera[2] would testify that on August 5, 2016, at around 11:19 p.m., in the 5100 block of West Madison Street in Chicago, he saw defendant riding a bicycle and attempted to stop him. Defendant fled and was eventually placed into custody, but refused to give his name and date of birth to the officers. Later, he was fingerprinted and found to be Deandre Norfleet.

¶ 10 The State rested, and the defense moved for a directed finding, which the trial court granted as to the charges of aggravated battery to Murray (counts I-III).

¶ 11 Defendant testified that he had a prior conviction for burglary and served three years' imprisonment. On July 27, 2016, he had an "altercation" with Dukes and left her house when she called the police. A friend drove him to Lawler and Thomas, where he noticed a "paddy wagon." As defendant walked in front of the vehicle, Goss and Murray exited. Murray, who was holding a stick, told defendant to approach. Defendant asked them "what seemed to be the problem," but Murray "grabbed" him, "pushed" him against the vehicle, and put his left hand behind his back. Then, Goss "stuck his hand in [defendant's] back pocket," and defendant asked what he was doing. Goss looked at defendant's "ID," said "yeah, it's him," and tried to handcuff defendant. Defendant turned to ask "what's going on," and "what am I being arrested for." But Goss put defendant in a "headlock" and Murray struck him with the stick. Defendant tried to block the

[2] Officer Magiera's first name does not appear in the transcript.

blows, and when Murray slipped, he fled. The entire incident lasted 15 to 20 seconds. Later, he sought treatment for a bruised left forearm, and pain in his right shoulder, lower back, and legs.

¶ 12 On cross-examination, defendant confirmed that he knew Dukes called the police, and that Goss and Murray were police officers when they approached him. Defendant agreed Murray placed his left hand behind his back, but could not handcuff him because he turned around. On re-direct examination, defendant stated that he turned to ask what was happening.

¶ 13 During closing arguments, defense counsel argued that defendant did not try to resist arrest, but was "just trying to figure out what was going on" when the officers took him to the ground, put him in a headlock, and struck him with a baton. According to counsel, any injury Goss received was "a result of [defendant] defending himself." In rebuttal, the State maintained that defendant began resisting arrest as soon as the officers confirmed his identity, and the officers used force only after he refused to cooperate. The State also argued that defendant's flight, and his evasive conduct when he was later arrested, demonstrated "consciousness of guilt."

¶ 14 The trial court found defendant guilty of aggravated battery of Goss (counts IV-VI) and both counts of resisting or obstructing a peace officer (counts VII-VIII). The court noted that defendant, having been in an altercation with Dukes, "was aware" that she contacted the police and "was cognizant" of why officers were looking for him. The court also observed that defendant began "resisting" and "strik[ing]" the officers only after they established his identity and tried to arrest him, and that his burglary conviction "altered" his credibility.

¶ 15 Defendant filed a motion for a new trial, which the trial court denied. Following a sentencing hearing, the court merged the three counts for aggravated battery and also merged the

two counts for resisting or obstructing a peace officer, and imposed concurrent sentences of four years' imprisonment.

¶ 16 On appeal, defendant argues that he was not proven guilty of resisting or obstructing a peace officer because the State did not establish beyond a reasonable doubt that he knew the officers were attempting to arrest him. According to defendant, no evidence showed the officers advised him that he was being arrested, informed him why they were seizing him, or supported the inference that he knew what was happening and therefore, knowingly resisted.

¶ 17 The State maintains that the evidence established beyond a reasonable doubt that defendant knowingly resisted arrest.

¶ 18 A challenge to the sufficiency of the evidence requires the reviewing court to consider whether, viewing the evidence in the light most favorable to the State, "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (Internal quotation marks omitted.) *People v. Gray*, 2017 IL 120958, ¶ 35. The trier of fact resolves "conflicts in the testimony, weigh[s] the evidence, and draw[s] reasonable inferences from the facts." *Id.* "[A] court of review will not substitute its judgment for that of the trier of fact on questions involving the weight of the evidence or the credibility of the witnesses." *Id.* The trial court's judgment will not be reversed "unless the evidence is so unreasonable, improbable, or unsatisfactory as to create a reasonable doubt of the defendant's guilt." *People v. Newton*, 2018 IL 122958, ¶ 24.

¶ 19 A person commits the offense of resisting or obstructing a peace officer when he "knowingly resists or obstructs the performance by one known to the person to be a peace officer *** of any authorized act within his or her official capacity." 720 ILCS 5/31-1(a) (West 2016).

The offense is a Class 4 felony when the violation is the proximate cause of an injury to the peace officer. 720 ILCS 5/31-1(a)(a-7) (West 2016). Here, defendant claims that he was not aware at the time of the incident that the officers were attempting to arrest him, and thus did not "knowingly resist" arrest.

¶ 20 "An arrest occurs when a person's freedom of movement is restrained by physical force or a show of authority." *People v. Surles*, 2011 IL App (1st) 100068, ¶ 23. "Although the intention to arrest must be communicated, and defendant's understanding of that intent is a factor to be considered," the test is not what the defendant thought, "but what a reasonable man, innocent of any crime, would have thought had he been in the defendant's shoes." (Internal quotation marks omitted.) *People v. Howlett*, 1 Ill. App. 3d 906, 910 (1971). Knowledge is ordinarily proven by circumstantial evidence, as opposed to direct proof. *People v. Slabon*, 2018 IL App (1st) 150149, ¶ 35. Thus, depending on the circumstances, it is not always necessary "for the officers to employ the specific words 'You are under arrest,' in order for defendant's arrest to be properly effectuated." *People v. McKinney*, 62 Ill. App. 3d 61, 67 (1978).

¶ 21 In this case, Murray and Goss testified that on the day of the incident, they were in their police uniforms and each had a weapon, handcuffs, and star. They met with Dukes, who said defendant battered her. Dukes described defendant and directed the officers to Lawler and Thomas. There, the officers encountered defendant and announced their office. Murray placed defendant's hand on the squadrol while Goss conducted a pat-down. Goss found defendant's identification and confirmed his name, and Murray yelled, "cuff him." Defendant broke away from Murray and punched Goss, who tackled him to the ground. Goss attempted to handcuff defendant while Murray struck him, but defendant fled. Defendant testified that he knew Dukes

called the police following their "altercation," and also knew that Goss and Murray were police officers when they approached him. Defendant added that, as the officers searched him by the squadrol, he observed Goss take his ID and say, "yeah, it's him." Then, defendant turned to ask the officers why he was "being arrested," and they began striking him until he fled.

¶ 22 Viewing these facts in the light most favorable to the State, we find the trial court could have found beyond a reasonable doubt that defendant knew the officers were attempting to arrest him and knowingly resisted. While the officers did not expressly tell defendant that he was under arrest, they searched him against the side of the squadrol, checked his identification, and stated that he would be "cuffed." Further, although Dukes's statement that defendant battered her was not admitted for the proof of the matter asserted, defendant's own testimony showed that he knew Dukes had called the police after an "altercation," and was therefore aware that the police might be looking for him. From these facts, a reasonable person in defendant's position, even if innocent, could understand that Goss and Murray intended to arrest him. *Howlett*, 1 Ill. App. 3d at 910. Notably, defendant fought with Goss and Murray when they attempted to restrain him, and fled from another officer who approached him several days later. *People v. McCoy*, 378 Ill. App. 3d 954, 962 (2008) (finding that physical acts such as struggling or wrestling with a police officer support a conviction for resisting a peace officer). Based on these circumstances, a rational trier of fact could infer that defendant knowingly resisted arrest.

¶ 23 Notwithstanding, defendant contends that the evidence supports an inference that he did not know the officers were arresting him. Specifically, he notes that he was not committing an offense at the time the officers approached him, they did not tell him he was under investigation for domestic battery, and they did not order him to do anything. Defendant argues that his trial

testimony that he turned to ask the officers what he was "being arrested for" reflected facts adduced at trial from the officers' testimony, not his actual statement or knowledge at the time of the incident. Therefore, according to defendant, he believed the officers engaged in the unauthorized use of force. However, the decision as to which of competing inferences to draw from the evidence is the responsibility of the trier of fact (*People v. Teague*, 2013 IL App (1st) 110349, ¶ 28), who is not required to raise all possible explanations consistent with a defendant's innocence to the level of reasonable doubt (*People v. Siguenza-Brito*, 235 Ill. 2d 213, 229 (2009)). Here, though defendant argues that conflicting inferences could be drawn from the facts, the trial court found him not credible and resolved these conflicts in favor of the State. Because a rational trier of fact could find beyond a reasonable doubt that defendant knowingly resisted the officers as they placed him under arrest, we affirm his conviction for resisting or obstructing a peace officer.

¶ 24 Affirmed.