2019 IL App (2d) 170184-U
No. 2-17-0184
Order filed September 25, 2019

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. DONALD PRITCHARD, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of Du Page County. No. 16-CF-180 Honorable George J. Bakalis, Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Hutchinson and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: The State proved defendant guilty beyond a reasonable doubt of disorderly conduct for knowingly transmitting a police report that an offense had been committed, knowing at the time of the transmission that there was no reasonable ground for believing the offense had been committed.

¶ 2 Defendant, Donald Pritchard, appeals his conviction of felony disorderly conduct (720 ILCS 5/26-1(a)(4), (b) (West 2014)) following a bench trial in the circuit court of Du Page County. He challenges the sufficiency of the evidence. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant was indicted on one count of disorderly conduct (720 ILCS 5/26-1(a)(4) (West 2014)), a Class 4 felony (720 ILCS 5/26-1(b) (West 2014)). The indictment alleged that on November 2, 2015, defendant committed the offense of disorderly conduct in that he "knowingly caused to be transmitted to Commander Jason Arres, a Naperville police officer, a report to the effect that an offense had been committed knowing at the time of the transmission that there was no reasonable ground for believing that an offense had been committed."

¶ 5 The following facts are adduced from the evidence presented at trial. Defendant had over the years filed complaints against the Naperville Police Department (Department) alleging racism. Defendant testified that the complaints "[came] back unfounded 100 percent of the time." On November 2, 2015, defendant was protesting at the Naperville police station for the third day in a row. The Department had given defendant permission to protest in the front circle drive of the police station. During his protest, defendant held a four-foot by eight-foot plywood sign that read: "Chief bigot Bob Marshall allows his officer[]s 'bigots' with badge[]s to taunt and terrorize black citizens in Nape[r]ville[.] They write false police reports and plant evidence[.] They are nothing more than criminal thug[]s ('KKK') with gun[]s and badge[]s in uniform!!!"

¶ 6 Defendant testified that on November 2, as he was protesting, a man approached him, introduced himself as Jataevius Armistead, and struck up a conversation about the protest sign. Armistead was at the police station to post bond for a friend; he and defendant were not previously acquainted. Defendant and Armistead talked for about 10 to 20 minutes. As they conversed, defendant stood "on the sidewalk on the curb" of the circle drive. Defendant testified that Armistead stood a few feet away "not far in the street" on the pavement of the circle drive, next to the curb. Armistead specified that he had one foot on the curb and one foot off the curb.

¶ 7 Armistead, who at the time of trial was incarcerated for an unlawful-use-of-a-weapon conviction, testified that he remembered only "bits and pieces" of the incident. He testified that, as he and defendant were conversing, he saw a police officer walk out of the police station and get into a squad car. According to Armistead, the officer appeared "tired" of defendant's presence in front of the police station.

¶ 8 The record established that at 1:26 p.m., a uniformed police officer drove a blue Crown Victoria unmarked squad car through the circle drive. Both defendant and Armistead testified that the tires of the squad car screeched; Armistead added that the car "skidded" and left tire marks. Defendant testified that he yelled something like "move or watch out" to Armistead and "nudged him, grabbed him" to prevent the squad car from striking Armistead. Armistead testified that he hopped onto the curb and moved out of the way. They estimated that the squad car drove within approximately 10 to 15 feet of them and almost hit them. Defendant testified that the police officer laughed at them. Armistead testified that he tried to avoid eye contact with the police officer but that the officer appeared to look toward them and may have smirked as he passed. They felt threatened by the actions and believed that the police officer was trying to intimidate them. Defendant specified: "[W]e couldn't believe that he was burning rubber around a corner. And we couldn't figure out why, you know, why would you do that, I couldn't figure it out. Well, I knew because protesting. I knew." Defendant testified that he dropped his protest sign and went into the police station to file a complaint.

¶ 9 Jason Arres, Commander of the Department's Office of Professional Standards, testified that at approximately 1:30 p.m. on November 2, 2015, defendant informed him that he wanted to make a complaint because, while protesting in front of the police station and conversing with Armistead, "a blue unmarked squad car had driven through the front circle and almost struck

them." Defendant further verbally reported that while the squad car was driving through the circle drive, defendant "needed to scream to [Armistead] to get out of the way in fear that the squad [car] would hit them" and he "wouldn't be intimidated by the [Department] or any of its bigots with badges." At this point, Commander Arres sought clarification from defendant as to whether defendant felt that the squad car was intentionally trying to strike them. Defendant responded affirmatively. According to defendant, Officer Arres discouraged him from filing a report and tried to convince him that the incident "didn't happen."

¶ 10 Commander Arres questioned Armistead as well, although no statements from Armistead were introduced at trial. Armistead testified that he told Commander Arres that he was reluctant to get involved. According to Armistead, he was on probation at the time of the incident and wanted to avoid problems with law enforcement.

¶ 11 Commander Arres testified that he ascertained that that the squad car in question was being driven by on-duty Department Officer Chris Sherwin. He directed Officer Sherwin to return to the police station; he returned approximately 20 to 30 minutes later. Meanwhile, Commander Arres provided defendant a form entitled "Affidavit Regarding Alleged Police Officer Misconduct." Defendant reported the following:

> "I[']ve been protesting in front of the Naperville Police Station for several hours when a young gentleman asked me what my sign read[.] We struck up a conversation[;] his name is JT[.] I[] was standing near JT and JT was standing off the curb in the street in front of the Naperville Police Station but not blocking any traffic at 'all!!' When all of a sudden a bigot cop came speeding around the donut like street called the front circle and almost hit me and JT[.] I had to yell watch out to him[.] This cop was driving a blue Crowne Vick unmarked police car[.] [H]e [*sic*] no business with us. [H]e burned rubber

> around the corner and continue[d] going east toward the parking lot[.] This idiot cop almost mold [*sic*] us down because I was protesting the very action he just displayed[.] Nothing more than thugs in uniforms[.] Dangerous (white) men with gun[]s and badge[s] trying to intimidate us black men. When it happened[,] I[] ran into the police station and told Sgt. Zook and he call Commander Arres. Commander Arres voice recorded JT stating what happened as well. I told you I[] would be around when one of you bigot cop kills a black man of 'hatred!' That's why I'm protesting. That Chief Bob Marshall allow[]s his officers to taunt and terrorize black citizen in Naperville[.] They filed false police reports and plant evidence[.] They are no more than 'criminal thug[]s' ! with gun[]s and badge[]s hunting black men while in uniform.
>
> Chief Bob Marshall you need to be 'Fired!' Officer Chris Sherwin Badge #5761."

¶ 12 Officer Sherwin denied the account. He testified that he drove through the circle drive on the day of the incident in the process of picking up a ride-along passenger. He had neither previously seen nor had any contact with defendant or Armistead. According to Officer Sherwin, he slowed down to approximately 12 miles per hour as he proceeded through the circle drive, with his foot on the brake "the entire way." His foot was "covering the brake to slow down," and he did not "screech the tires." Officer Sherwin further testified that he "hug[ged]" the northernmost part of the circle drive because he saw two men standing there and wanted to avoid getting too close to them. His driver's side window was all the way down. According to Officer Sherwin, as he drove through the circle drive, neither defendant nor Armistead moved or said anything to him, and he did not come close to them.

¶ 13 Commander Arres testified that he created a video of the incident when Officer Sherwin returned to the police station. Commander Arres explained:

"The squad cars are recording any time the vehicle is driving. It is a constant recording of videos. The incidents are only created if one of the triggers is activated, so that would be speed, the lights are turned on, the siren, manually activated by the officer, or a crash occurs. Then what happens is the camera starts creating an incident. So it makes a partition in that video at the start and a partition when the video ends. So that video is then protected and not overwritten later and eventually uploaded.

In this case, because Officer Sherwin did nothing to activate any of the triggers, what I had to do was there is a feature of the WatchGuard system that is called record after the fact.

So because it is constantly recording, you can set a start time on that video and then you can set an end time. So knowing that this incident had just occurred, I knew that the video was readily available to have that happen, so I created—I started it sometime after 1:00 and then I can't remember the exact time that I ended the clip, but I essentially created—you can create an incident of that time period, so I created that video.

Once that video was created, the video is wirelessly uploaded from the squad car into the network."

¶ 14 Commander Arres testified that he was not aware of the length of time that it took to upload the video to the network as the time varies depending upon server traffic. Thus, when defendant requested to view the video, Commander Arres instructed defendant to return the next day as he did not know whether the video was ready.

¶ 15 Defendant returned to the police station the next day, on November 3, 2015, and he and Commander Arres viewed the video. The video was auditory as well as visual. Commander Arres explained that this was because the "cabin mic" in the squad car had been activated at

some point and apparently inadvertently left on. The video, as well as still-frame photos derived from the video, were admitted into evidence.

¶ 16 Commander Arres testified that the video showed Officer Sherwin driving through the police department lot and displayed the speed of the squad car as well as a brake indicator. The video reflected that as Officer Sherwin turned into the circle drive, he was driving 19 miles per hour. The speed was reduced to 14 miles per hour and then 12 miles per hour as defendant and Armistead came into view. The brake indicator was triggered three times as Officer Sherwin drove around the circle drive—first as he began turning into the circle, next as defendant and Armistead came into view, and then as Officer Sherwin began to turn out of the circle. Commander Arres testified that "[a]s the car passes through, neither subject takes any evasive maneuvers," and defendant "doesn't drop the sign, move out of the way or anything." Rather, the "car simply circles around and pulls out ***."

¶ 17 Commander Arres explained that the speed readings displayed in the video were derived from an antenna that was hooked up to the video system in the trunk and recorded GPS, not from the squad car's speedometer. He opined that the GPS speed readings shown in the video were accurate. However, on cross-examination, he acknowledged that he had not noticed the discrepancy at the end of the video, where the squad car appeared to be stopped, yet the GPS speed reading showed it was moving at 18 miles per hour. Commander Arres also acknowledged that the brake indicator shown in the video could be triggered by a slight tap on the brake pedal.

¶ 18 Commander Arres further testified that voices could be heard as Officer Sherwin drove through the circle and "something was said" but that he could not completely make out what was said. He said that he could "kind of hear" what he perceived to be "the wind going by," followed

by "something unintelligible" that seemed to come from outside the squad car as it was going through the circle drive.

¶ 19 According to Commander Arres, after he and defendant viewed the video, defendant "didn't believe that the video was actually Officer Sherwin's video and then there was, you know, summarizing basically that he thought that I had changed the video ***." Defendant testified that he "accused [Commander Arres] of tampering with the tape because that is not what I saw." Defendant "thought maybe he blew the tape up or had blown it out of proportion because I didn't—when he showed me that. I couldn't believe it."

¶ 20 Commander Arres was questioned regarding the ability to alter the video:

> Q. [A]re you able to alter the content that is in the actual video?
>
> A. No.
>
> Q. Can you blur anyone's face in the video, for example?
>
> A. No. There is no redaction software currently built into the WatchGuard system that we have.
>
> Q. So on your end, the video cannot be altered or changed?
>
> A. Correct. Not without a secondary or proprietary software.
>
> Q. Okay. And you say secondary proprietary software. Did you employ any secondary proprietary software in this instance?
>
> A. No."

¶ 21 Commander Arres testified that, after reviewing the video and interviewing Officer Sherwin, he filled out an investigator summary of findings, "where based on the complaint and the facts that I had seen in the video, [it] did not appear at all that our officer, based on his statement, and again, just watching the video had intentionally tried to hit anybody in the front

circle that day, so my recommendation was the complaint against our officer was unfounded." The Department subsequently brought the matter to the State's Attorney's Office.

¶ 22 On cross-examination, defendant testified regarding the discrepancies between his police report and the video:

"MS. NUCKOLLS [(ASSISTANT STATE'S ATTORNEY)]: Can you tell me on the video where you reached out and grabbed [Armistead]? I don't see it on the video.

DEFENDANT: I don't see it on the video.

* * *

MS. NUCKOLLS: Okay. Now this video that I just showed you, you don't see yourself flinch in that video, do you?

DEFENDANT: I can't explain it.

MS. NUCKOLLS: Okay. But you don't see it, right?

DEFENDANT: I can't explain it.

MS. NUCKOLLS: Okay. And you—at that point, you didn't drop your sign, did you?

DEFENDANT: I can't explain it.

MS. NUCKOLLS: Okay.

DEFENDANT: What did I—I didn't carry the sign in. Apparently I dropped it.

MS. NUCKOLLS: Okay. But you don't see yourself in the video dropping that sign?

DEFENDANT: I can't explain it, ma'am.

MS. NUCKOLLS: And you don't see yourself on that video doing anything to get out of the way of this squad car, do you?

DEFENDANT: I cannot explain it."

¶ 23 Defendant was further questioned as to whether he had to take his hand off his protest sign when he nudged Armistead. Defendant responded, "One [hand] was on the sign and I reached out and touched him and yelled." In response to questioning as to whether "both hands were back on the sign again" when the squad car actually passed him and Armistead, defendant responded, "No, I dropped it and went in the police station."

¶ 24 The trial court denied defendant's motion for a directed finding of not guilty at the close of the State's case and ultimately found defendant guilty of disorderly conduct. In finding defendant guilty, the trial court stated that "[p]erspective certainly is a factor in this case," and defendant "begins with the perspective that he, obviously, has some difficulty with the Naperville Police Department, so that is his perspective." Thus, the trial court stated, defendant's "viewpoint is always going to be somewhat influenced by what that perspective or belief about the Naperville Police Department is, so that anything an officer might do, he is going to interpret in a way that is in keeping with his views of the department."

¶ 25 The trial court found that "it really boils down to the video and what the video shows in this particular case" and "some of the testimony that we heard doesn't comport with, obviously, what the video shows." The trial court explained:

> "The video shows the officer beginning to make the turn into the circle. The GPS shows various speeds, which the defense contends may not be correct, but looking at the video, you can kind of judge the speed of the vehicle just by seeing how long it takes to make a movement through the photographs that are being shown.

Even if we assume that he is entering that circle at 19, 20 miles an hour, I don't necessarily think that is an outrageous speed. There is continual braking throughout his movement through the circle itself.

Now, we heard testimony about screeching tires. I just can't conceive how going somewhere between 19 to 14 miles per hour results in screeching tires unless you're going to stop, start, stop, start, stop and start. That is not depicted on the video.

Mr. Armistead said there were tire marks on the street. Again, at that type of speed, without some sudden stops of some kind, I don't believe that that is a possibility as well."

¶ 26 The trial court concluded that the "question really is was it a reasonable belief that [defendant] had that this vehicle was operated in such a manner, came in such close contact to them that he believed that the vehicle either purposely or was being driven in such a manner as to, perhaps, threaten harm to both of them." In finding that it was not, the trial court stated:

"Now we look at the video. We see the car, we see the car progress, we see it go by the two individuals and, frankly, there is barely a movement. By [defendant], there is none. I think Mr. Armistead maybe takes one step, but certainly not to indicate that they felt there were in harm's way in any respect by the car passing by them.

Mr. Armistead said the car was 10 to 15 feet away from them. You could stand on the curb in the city and cars go by at 40 miles per hour and you're not feeling that you're in jeopardy because of that.

It's not reasonable to believe that you were in jeopardy by a car passing 10 to 15 feet in front of you at approximately somewhere between 19 to 14 miles per hour."

¶ 27 The trial court further stated that "we're talking about perspective," and defendant, "with his viewpoint of the Naperville Police Department may very well have felt that that was what was being done." The trial court continued: "[Defendant] very well may have yelled out be careful or something to that effect. At that instant, he may have believed that that is what happened."

¶ 28 However, the trial court stated:

> "[Defendant] signs the affidavit, but the next day, the next day, he goes and sees the video. He sees what happened and has no explanation for it. He can't explain how the video does not comport with anything that his perspective said it said, and apparently persists in going ahead with this report.
>
> The question is did he submit a report that an offense had been committed? Yes, he did. Did he do so knowing there [were] no reasonable grounds for believing that such an offense had been committed? And certainly by, in my mind, by day two, once he had a chance to look at this video, no reasonable person would believe that such an offense had been committed and he should not have pursued the complaint."

¶ 29 Defense counsel interjected, arguing that the trial court's guilty finding appeared to be improperly "based in large part upon my client viewing the video on the 3rd, but the charge in this case is from November 2nd ***." The trial court stated that its point was that defendant had an opportunity, the day after submitting the affidavit, to acknowledge that he made a mistake and that the charge for disorderly conduct was not brought until much later.

¶ 30 Defendant subsequently filed a motion for reconsideration or, alternatively, a new trial. He argued that, pursuant to the language of the indictment and the underlying statute (720 ILCS 5/26-1(a)(4) (West 2014)), the relevant time period for his belief in the truthfulness of his report

was the time at which the report was made. Defendant pointed out that his theory of the case was that, because of his life experiences, he believed his report on November 2, 2015, to be true. According to defendant, the trial court appeared to "have found that to be true" yet essentially imposed a requirement that defendant "advise the police on November 3, 2015, that he now believed the initial report of November 2, 2015[,] to be false." However, defendant argued, such a statement would not have prevented the disorderly conduct charge and further could have been used against him at trial as a statement against interest.

¶ 31 Following argument, the trial court denied defendant's posttrial motion. In doing so, the trial court clarified its ruling at trial:

> "Okay, I mean, sometimes I speak off the top of my head and perhaps I'm not as clear as I should be. What I meant by saying that is that any reasonable man would not have believed what [defendant] said. And, [defendant's] viewpoint I believe was, in fact, somewhat colored by his beliefs and the difficulties he's had with the Naperville Police in the past. But a reasonable person would not have believed that those events, as he described them, would ha[ve] taken place, if that makes it clearer. But I believe on the date in question that a reasonable person would not have believed that those were correct."

The trial court sentenced defendant to six months' conditional discharge and 26 days in jail. Defendant timely appealed his conviction.

¶ 32 II. ANALYSIS

¶ 33 Defendant challenges the sufficiency of the evidence against him. He contends that the State failed to prove beyond a reasonable doubt that he knowingly transmitted the police report, knowing at the time of the transmission that there was no reasonable ground for believing that an

offense had been committed, as required by section 26-1(a)(4) of the Criminal Code of 2012 (720 ILCS 5/26-1(a)(4) (West 2014)). We disagree.

¶ 34 The State bears the burden of proving beyond a reasonable doubt each element of the offense. *People v. Gray*, 2017 IL 120958, ¶ 35. A reviewing court faced with a challenge to the sufficiency of the evidence must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Id.* It is not the function of the reviewing court to retry the defendant. *Id.* Rather, the fact finder is responsible for resolving conflicts in the testimony, weighing the evidence, and drawing reasonable inferences from the facts. *Id.* Thus, a reviewing court will not substitute its judgment for that of the trier of fact on questions involving the weight of the evidence or witness credibility. *Id.* A criminal conviction will not be reversed unless the evidence is so unreasonable, improbable, or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *Id.*

¶ 35 Initially, defendant argues that the trial court applied the wrong legal standard in finding him guilty of disorderly conduct. According to defendant, this issue presents a question of statutory interpretation subject to *de novo* review. See *People v. Richardson*, 196 Ill. 2d 225, 228 (2001) (the construction of a statute is a question of law subject to *de novo* review).

¶ 36 The disorderly conduct statute provides that "[a] person commits disorderly conduct when he or she "knowingly," *inter alia*, "[t]ransmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense will be committed, is being committed, or has been committed." 720 ILCS 5/26-1(a)(4) (West 2014). This case does not

present an issue of statutory construction. There was no dispute as to what the statute requires with respect to a defendant's mental state—the defendant must knowingly transmit the report, knowing at the time of the transmission that there is no reasonable ground for believing that the offense has been committed. *Id.*

¶ 37 Defendant nevertheless contends that the trial court acknowledged that defendant's subjective belief regarding the incident was honestly held, yet it found that no reasonable person would have shared defendant's belief that the squad car almost hit him and Armistead. Thus, defendant argues, the trial court improperly ignored the subjective "knowing" standard set forth in the statute and applied only a reasonable-person standard.

¶ 38 A review of the entirety of the trial court's ruling does not support defendant's argument. The trial court noted that defendant "very well may have yelled out be careful or something to that effect" and "[a]t that instant, he may have believed that that is what happened." However, the comment was in reference to defendant's perspective. The trial court further stated that defendant, "with his viewpoint of the Naperville Police Department may very well have felt that that was what was being done." Based upon the trial testimony and video, however, the trial court concluded that there was no reasonable ground for believing that the squad car was being driven in a threatening manner. The trial court specified that "[i]t's not reasonable to believe that you were in jeopardy by a car passing 10 to 15 feet in front of you at approximately somewhere between 19 to 14 miles per hour." The trial court's conclusion, as demonstrated by the record, was that defendant's perspective at the time did not preclude his "knowing" that there were no reasonable grounds for believing that the squad car tried to hit them. Indeed, in denying defendant's posttrial motion, the trial court clarified that defendant's "viewpoint I believe was, in fact, somewhat colored by his beliefs and the difficulties he's had with the Naperville Police in

the past" but "a reasonable person would not have believed that those events, as he described them, would ha[ve] taken place ***." Accordingly, we reject defendant's argument that the trial court failed to apply the knowledge requirement set forth in the statute.

¶ 39 Defendant, however, also contends that the trial court improperly considered his mental state the day after he filed the police report, rather than limiting the inquiry to what defendant knew when he made the report. Defendant contends that the trial court essentially imposed a duty to retract the report once he reviewed the video the next day. A review of the entirety of the trial court's ruling likewise does not support defendant's argument. The trial court's reference to the video was in the context of finding that defendant's report was refuted by the video. The trial court added the statement that "by day two, once he had a chance to look at this video, no reasonable person would believe that such an offense had been committed and he should not have pursued the complaint." However, after defense counsel argued that the trial court's guilty finding appeared to be improperly based upon the review of the video the next day, the trial court explained that its point was merely that defendant had an opportunity to retract the report long before he was charged with disorderly conduct. Moreover, in denying defendant's posttrial motion, the trial court confirmed: "I believe on the date in question that a reasonable person would not have believed that those [events as described by defendant] were correct." In sum, the record demonstrates that the trial court properly considered defendant's mental state at the time he transmitted the police report.

¶ 40 Defendant maintains that the evidence was insufficient to prove that he knowingly transmitted the police report, knowing at the time of the transmission that there was no reasonable ground to believe that the offense he reported had been committed. In his "Affidavit Regarding Alleged Police Officer Misconduct," defendant reported that as he was protesting, "all

of a sudden a bigot cop came speeding around the donut like street called the front circle and almost hit me and [Armistead]" and that he "had to yell watch out to him." Defendant continued that the officer "burned rubber around the corner and continue[d] going east toward the parking lot" and "[t]his idiot cop almost mold [*sic*] us down because I was protesting the very action he just displayed." Defendant concluded that when it happened, he ran into the police station.

¶ 41 Defendant and Armistead testified regarding the incident as set forth in the affidavit. Both defendant and Armistead testified that the tires of the squad car screeched. Defendant testified that he yelled something like "move or watch out" to Armistead and "nudged him, grabbed him" to prevent the squad car from striking Armistead. Both defendant and Armistead testified that Armistead hopped onto the curb and moved out of the way. They estimated that the car drove within approximately 10 to 15 feet of them and almost hit them. Defendant testified that he dropped his protest sign and went into the police station. Officer Sherwin denied these accounts and testified that he slowed to approximately 12 miles per hour as he proceeded through the drive with his foot on the brake to slow down.

¶ 42 The record demonstrates that the trial court considered the foregoing testimony and concluded that "it really boils down to the video and what the video shows in this particular case." The squad car video displayed the speed of the squad car. Officer Sherwin was driving 19 miles per hour as he initially entered the circle drive. The video further reflected that the speed ultimately was reduced to 12 miles per hour as defendant and Armistead came into view. Defendant pointed to a discrepancy in the speeding readings, but there was no dispute that the brake indicator was in fact triggered three times as Officer Sherwin continued through the drive, including when defendant and Armistead came into view. As Commander Arres testified, neither defendant nor Armistead "[took] any evasive maneuvers," and defendant "[did not] drop the

sign, move out of the way or anything." Accordingly, we cannot say that the evidence is so unreasonable, improbable, or unsatisfactory that it creates a reasonable doubt of defendant's guilt.

¶ 43 Defendant, however, argues that the testimony that he nudged or grabbed Armistead, that Armistead hopped onto the curb, and that he dropped his sign was uncontradicted. Thus, according to defendant, the trial court improperly disregarded it in favor of what was depicted in the squad car video. Defendant maintains that the squad car camera was limited to a stationary, head-on view from inside the car's windshield and did not depict defendant's and Armistead's actions when they were in the squad car's blind spots. Moreover, defendant argues, not all sound from outside the squad car was audible to the cabin microphone. Indeed, Commander Arres testified that voices could be heard as Officer Sherwin drove through the circle and "something was said." This corroborated defendant's testimony that he called out to Armistead as the squad car passed them. According to defendant, the only reasonable inference from the evidence was that the events described by defendant and Armistead—defendant nudging or grabbing Armistead, Armistead hopping onto the curb, and defendant dropping his sign—occurred at or after the point that defendant called out to Armistead when they were out of the camera's view.

¶ 44 The record does not support defendant's argument. The trial court explicitly recognized the possibility that "[defendant] very well may have yelled out be careful or something to that effect," although that could not be heard on the video. Moreover, defendant's and Armistead's accounts were contradicted by Officer Sherwin's testimony as well as the video. And defendant was cross-examined regarding the discrepancies between the video and his police report, including that the video did not show defendant flinching, grabbing Armistead, dropping his protest sign, or doing anything to get out of the way of the squad car. Defendant's response was,

"I can't explain it." Defendant's position was that the video had been altered. However, Commander Arres testified that it was not possible to alter the video without redaction software—software that he did not employ. The trial court was responsible for resolving conflicts in the testimony, weighing the evidence, and drawing reasonable inferences from the facts. See *Gray*, 2017 IL 120958, ¶ 35. We will not substitute our judgment for that of the trial court on these issues. See *id.*

¶ 45 Defendant nevertheless challenges the trial court's finding that the squad car's tires could not have screeched or squealed absent a higher speed of travel or repeated starting or stopping. He argues that there was no evidence to support this finding and that, to the extent it was based upon personal knowledge, it was wrong. Defendant cites foreign cases for the proposition that a driver does not have to speed for the tires to squeal. See *Ford Motor Co. v. McDavid*, 259 F.2d 261, 262-64 (4th Cir. 1958); *Singleton v. State*, 91 S.W.3d 342, 346 (Tex. Ct. App. 2002); *In re Jon J.*, 760 N.E.2d 934, 936 (Ohio Ct. App. 2001). Defendant likewise challenges as unsupported by the evidence the trial court's finding that a person standing on the curb in the city with cars passing at 40 miles per hour would not feel endangered. The trial court's comments do not reflect improper reliance on personal knowledge. There is nothing in the record to suggest that the comments were based on a private investigation or private knowledge; rather, they were in response to the evidence presented at trial. See *People v. Thomas*, 377 Ill. App. 3d 950, 963 (2007) ("A trial judge does not operate in a bubble; [he] may take into count [his] own life and experience in ruling on the evidence."). Moreover, these were isolated comments made in the course of the trial court's extensive review of the evidence. The whole of the record demonstrates that any rational trier of fact could have found the essential elements of the offense of disorderly conduct beyond a reasonable doubt.

¶ 46 As a final matter, defendant contends that the State failed to prove that he knew that, by filling out the "Affidavit Regarding Alleged Police Officer Misconduct," that he was in fact transmitting a report that an offense had been committed, as required by section 26-1(a)(4). The State argues that defendant forfeited this argument by failing to raise it in the trial court. See *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). However, the premise of the argument concerns sufficiency of the evidence, which defendant raised in the trial court, and which, in any event, cannot be forfeited. See *People v. Williams*, 2013 IL App (1st) 111116, ¶ 71 (citing *Enoch*, 122 Ill. 2d at 190).

¶ 47 Regardless, defendant's argument fails. According to defendant, the record demonstrates that he merely intended to complain that a police officer had tried to intimidate him, just as he had filed complaints against the Department in the past. Defendant cites law review articles for the proposition that criminal prosecution of police officer misconduct is typically limited to a small number of blatant cases. He contends that there was no reason to believe that he was aware that his complaint would qualify as a report of the crime of official misconduct, as all of his prior complaints against the Department had been deemed unfounded.

¶ 48 In addition to lacking details regarding defendant's prior complaints against the Department, the record belies defendant's argument. The affidavit that defendant signed is entitled "Affidavit Regarding Alleged Police Officer Misconduct." All three pages of the affidavit were notarized. Each page begins: "NOW COMES [defendant], and having been duly sworn hereby deposes and states under oath that: [Set forth the facts upon which you base your complaint of officer misconduct. ***]." Defendant attested under oath that, *inter alia*, "a bigot cop came speeding around" the front circle and almost hit him and Armistead and that the "idiot cop almost mold *[sic]* us down because I was protesting the very action he just displayed." The

evidence was sufficient for the trial court to find that defendant knowingly transmitted a report that an offense had been committed. Accordingly, based upon our review of the record, we cannot say that the evidence was so unreasonable, improbable, or unsatisfactory that it creates a reasonable doubt of the defendant's guilt.

¶ 49 III. CONCLUSION

¶ 50 For the foregoing reasons, the judgment of the circuit court of Du Page County is affirmed.

¶ 51 Affirmed.