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2019 IL App (3d) 150770-U

Order filed January 11, 2019

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois.
Plaintiff-Appellee,)	
v.)	Appeal No. 3-15-0770
VERLONZO J. TURKS,)	Circuit No. 13-CF-662
Defendant-Appellant.)	The Honorable Edward A. Burmila, Jr., Judge, presiding.

JUSTICE McDADE delivered the judgment of the court.
Justices Lytton and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The State failed to prove beyond a reasonable doubt that the defendant knowingly and falsely represented himself to be a peace officer.

¶ 2 The defendant, Verlonzo J. Turks, was convicted of false personation of a peace officer (720 ILCS 5/17-2(b)(3) (West 2012)) and was sentenced to 30 months of probation. On appeal, Turks argues that: (1) the evidence was insufficient to prove him guilty beyond a reasonable

doubt; (2) the false personation statute is facially unconstitutional; and (3) the false personation statute is unconstitutional as applied to him. We reverse.

¶ 3

FACTS

¶ 4

On March 27, 2013, Turks was charged by indictment with false personation of a peace officer (720 ILCS 5/17-2(b)(3) (West 2012)). The indictment alleged that Turks represented that he was a police officer to Michael Brown, who was a peace officer.

¶ 5

In May 2015, the circuit court called the case for a jury trial. Brown testified that on March 13, 2013, he was working as a Sauk Village police officer and was off-duty when he stopped at a gas station in Crete at approximately 4:30 p.m. to refuel his personal vehicle. The gas station was not under heavy traffic at the time, nor was there any kind of conflict ongoing. While refueling, he noticed a black Crown Victoria parked at another gas pump. The vehicle, which was of the type commonly used in law enforcement, had several light-emitting diode (LED) lights visible through the rear windshield, a spotlight mounted to the front driver's side door, and a mobile data terminal installed next to the steering wheel. The placement of these objects was consistent with typical law enforcement vehicles, which led Brown to believe that the vehicle was in fact a law enforcement vehicle.

¶ 6

Brown testified that Turks was standing outside of the black Crown Victoria and described his appearance as follows:

“He was wearing a black baseball cap. It had several emblems on it. One was a United States Coat of Arms. One was another Masonic emblem with a square and a cross. It was a Thin Blue Line type of flag which is in the shape of the American flag

with the blue -- a navy blue colored Thin Blue Line with black line and another black on top of it.

It's symbolism for when law enforcement officers are said to have stood for the order -- the Thin Blue Line is between order and chaos. On the back strap of the cap was an inverted United States Army Airborne parachute wings.

He was wearing a navy blue in color black [battle dress uniform (BDU)] shirt. It was long-sleeved. He was wearing navy blue BDU pants and black combat boots with a black shirt.”

Brown further stated that Turks' clothing was consistent with the type of BDU uniform worn by tactically assigned law enforcement officers.

¶ 7 Brown decided to engage Turks in conversation because “it's common for law enforcement to acknowledge each other, either in some formal fashion or informal.” Brown asked Turks what department he worked for. In what Brown described as an authoritative tone, Turks answered, “federal DHS.” Turks got into his vehicle and began to drive away.

¶ 8 Brown found the license plates on Turks' vehicle noteworthy. The front plate had the Thin Blue Line emblem on it, while the rear plate was an Indiana bicentennial plate that he characterized as a personalized license plate.¹ In this regard, Brown stated:

“I've seen federal vehicles with what we term the soft plates which are basic civilian plates, and those are more for

¹ Brown believed the license plate was personalized because he had never seen an Indiana bicentennial plate. He testified that he had learned later that the Indiana bicentennial plate was a standard issue plate.

undercover type of things or if they want to mask their presence as law enforcement.

I've never seen a law enforcement vehicle having personalized plates so that gave me a suspicious feeling at the time."

Brown also stated that he had seen police vehicles from the Lake County, Indiana, police department use the Thin Blue Line plate on the front of their vehicles.

¶ 9 Brown also commented that the workmanship on Turks' vehicle was shoddy. He had never seen the exact type of rear lights that were present in Turks' vehicle, and the wires from those lights were exposed, creating what Brown deemed an unprofessional appearance.

¶ 10 Due to his suspicions, Brown called 911. The call was routed to the Crete police department and Brown told them about the situation and his suspicions. He then followed Turks' vehicle. Turks eventually turned into the parking lot of a high school; Brown followed. Turks stopped abruptly, and Brown also stopped. Turks exited his vehicle and began walking rapidly toward Brown's vehicle. Brown felt that he was in danger, in part because he had noticed a bulge on the right side of Turks' pants at the gas station, which led him to believe that Turks may be carrying a firearm. Brown announced he was a police officer from Sauk Village and drew his gun, pointing it at a downward angle. He requested Turks' credentials. Turks handed him a wallet with a badge on the front. The wallet was of a type commonly used to display badges. Brown described the badge as "an oval-shaped badge that states International Special Agent with the initials ISA *** at *** the bottom part of the badge. In the crest in the middle, it has the United States Coat of Arms with the words The United States of America that is black in color."

Approximately five to seven minutes after the two vehicles pulled into the parking lot, the police arrived.

¶ 11 Inside the wallet were what appeared to be two identification cards. One card said “Protective Services Division” and special agent, and it had the United States Coat of Arms on it. Turks’ picture was on the card, in which he was wearing something with gold bars that were the emblems of a lieutenant. The card also listed his height, weight, hair color, and eye color. Brown also stated: “[t]he issue date is 18 October 2001. Expiration, conditional. Designation, it states, Lieutenant Turks, Jared, V as in Victor, with the initials RFID, 175121 Theater, North America, ET Logistics, and his signature that’s written in blue ink.” The signature included the abbreviation “LT.” Further, the card said “Association of Special Agents” on the other side.

¶ 12 Multiple photographs of Turks and his vehicle were introduced into evidence. While identifying these pictures, Brown commented, *inter alia*, that Turks’ vehicle had two antennas mounted to the trunk, which were of the type commonly used by law enforcement. In addition, the driver’s side window and both rear-door windows were tinted, which was a common practice in law enforcement. The photographs also showed that Turks was wearing a bulletproof vest underneath his shirt at the time he was arrested.

¶ 13 Charles Scoles testified that he was employed in March 2013 by the United States Department of Homeland Security. He was brought in to the Will County sheriff’s office to interview Turks. During the interview, Turks stated he was a process server with “Number 1 Processing” out of Merrillville, Indiana, and worked as a truck driver. He never told Scoles that he worked for the federal government. Turks told Scoles that he had purchased the “International Special Agent” badge off the Internet for \$28. Scoles further stated that he had

been working in the federal “Protective Service Division,” and the badge possessed by Turks was nothing like the badge given to employees of that agency.

¶ 14 Turks also told Scoles during the interview that he had purchased the LED lights and installed them in his vehicle because “he was a process server and *** was in fear of some neighborhoods that he entered and he wanted people to believe that he was the police.”

¶ 15 Scoles also testified regarding Turks’ version of the incident relayed during the interview. Turks stated that an unidentified male walked up to him and kept asking him who he was with, despite Turks’ nonresponsiveness. At one point, the male asked Turks if he was a “fed,” and Turks stated “yes, I’m a fed.”

¶ 16 Richard Hunt testified that he worked for the Crete police department at the time of the incident. He responded to the school parking lot and spoke with Brown and then Turks. He asked Turks if he had told Brown he was with the federal DHS. Turks said yes. Hunt asked for identification, and Turks handed over an Indiana commercial driver’s license. Hunt told Turks that he needed to see DHS identification, and Turks responded, “that’s the ID. That’s a license that allows me to drive throughout the nation. It’s a federal license.” Hunt did not see the badge Turks possessed until they searched Turks’ vehicle. Inside the vehicle, they found traffic control vests and wands, a police-style jacket, police-style “do not cross” tape, a handcuff key, and a loaded Glock handgun.

¶ 17 Hunt also questioned Turks after he was transported to the police station. Turks told Hunt, *inter alia*, that he was a process server. Hunt requested information about Turks’ employer, and Turks provided a phone number. When Hunt called that number, he learned it had been disconnected. In addition, the mailing address Turks provided for the business was a post office box in Dyer, Indiana.

¶ 18 Turks' written statement to the Crete police was entered into evidence. In that statement, Turks described that on March 13, 2013, he pulled into a Shell gas station in Crete at a time that he was trying to schedule a meeting with the instructor of his " 'NRA Certified Law Enforcement Firearms Instructors Course.' " His vehicle was parked at a pump and as he walked toward the building, a gold Buick pulled in and blocked his path. He stated he thought he might have been followed and in danger because he was a process server. However, the two individuals in the vehicle were only trying to sell car scents and perfume. Other vehicles started to line up behind the gold Buick and began to honk their horns. Turks then stated that he directed the individuals to pull their vehicle up to pump three "[i]n a [*sic*] effort to just shut [the honking cars] up and clear traffic so I could continue my day[.]" The individuals complied, but did not purchase gas. Instead, Turks walked up to the driver "reluctantly" and allowed him to continue his sales pitch. Turks stated that people continued to express anger at having to wait for gas. He then "tossed" a \$20 bill at the driver. Turks then stated that "the angry black male driving one of the cars that was delayed" was "speaking negatively out loud about the issue that he felt slowed him up from pumping his gas[.]" Turks later found out that this individual was an off-duty police officer.

¶ 19 Turks then wrote, "I am a PROCESS SERVER, and a [*sic*] Executive Protection Agent. I've worked with and for every area of law enforcement you can think of. The Job I do gets me Cursed OUT, BEAT, CHASED, ATTACKED, ect. [*sic*] on a regular bases [*sic*]. So YES my defensive awareness is up because he is making something that is Completely NOT my fault to be a personal issue[.]" Turks said he feared for his life because the off-duty officer was staring at him. Turks then described that it was noisy at the gas station when the off-duty officer asked him what department he was with. Turks replied, "I am under federal." The off-duty officer

listed several federal agencies and asked which one, to which Turks replied, “YEAH uhh-huh whateva.” Turks then drove off but noticed the off-duty officer was following him. Turks pulled into a school parking lot to call the police and stepped outside his vehicle once he felt safe so the public could see him. The off-duty officer rushed from his vehicle, pulled his gun, and demanded identification from Turks, who complied.

¶ 20 Turks testified at trial that on March 13, 2013, he was returning from his work as a process server when he stopped at a Shell gas station. He stated that he did not tell, or infer to, Brown that he was a police officer.

¶ 21 On cross-examination, Turks described the encounter in the following manner: “Mr. Brown to my opinion attacked me, and I tried to avoid his attack by getting in my car and driving away. He followed me. He pulled his weapon on me. He threatened my life. It doesn’t get much simpler than that.” He stated that Brown never identified himself as law enforcement. He also denied telling Brown, Scoles, or Hunt that he was employed by the federal Department of Homeland Security.

¶ 22 Turks also testified that he had been a security officer and a security agency owner since 1996. He stated that his privately owned security company was called Protective Services Division. He claimed that his business was licensed through Indiana and accredited through reciprocity in Illinois. However, he later stated that the business was not registered in Indiana; that it was licensed by the “Masonic Organization.” He also stated that he operated a business called “Number One Priority Process Serving” that was licensed in Illinois.

¶ 23 Regarding his written statement to the Crete police, Turks claimed, *inter alia*, that the firearms instructor he referenced was a co-instructor, and that the two of them worked together. He stated that he was sponsoring the class through the security companies that he owned.

¶ 24 In rebuttal, the State called an investigator from the Will County State’s Attorney’s Office who performed research into Turks’ alleged businesses. He did not find any business registered in Indiana or Illinois called “Protective Services Division” or under the names Jared Turks, Jared Turks, or Verlonzo Turks. He also checked several variations of “Number 1 Priority Process Service,” but did not find any such businesses registered to Turks.

¶ 25 After deliberations, the jury returned a guilty verdict. The circuit court later sentenced Turks to 30 months of probation. Turks appealed.

¶ 26 ANALYSIS

¶ 27 Turks’ first argument on appeal is that the evidence was insufficient to prove him guilty beyond a reasonable doubt.

¶ 28 When faced with a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the State and determine whether any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985).

¶ 29 Section 17-2(b)(3) of the Criminal Code of 2010 (the Code) provides that “[a] person commits a false personation if he or she knowingly and falsely represents himself or herself to be *** [a] peace officer.” 720 ILCS 5/17-2(b)(3) (West 2014). The Code defines “peace officer” as:

“(i) any person who by virtue of his office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, or (ii) any person who, by statute, is granted and authorized to exercise powers similar to those

conferred upon any peace officer employed by a law enforcement agency of this State.” 720 ILCS 5/2-13 (West 2014).

Further, section 2-13 provides that for purposes of the statute criminalizing the false personation of a peace officer, the definition of “peace officer” includes “officers, agents, or employees of the federal government commissioned by federal statute to make arrests for violations of federal criminal laws[.]” *Id.*

¶ 30 In this case, Turks simply stated to Brown that he was with “federal DHS.” This was an ambiguous statement that was not a conclusive representation that he was a peace officer as defined by the Code. Further, even if Turks’ clothes and vehicle may have resembled the clothes and vehicles of the peace officers of some state or federal agencies, there was no evidence that his clothes and vehicle contained any representations or facsimiles of a specific agency or agencies. In fact, there was no evidence that it was unlawful for Turks to possess those clothes and vehicle accessories.

¶ 31 Further, it is important to consider the defendant’s actions at the time he or she allegedly violated the false personation statute. When discussing the constitutionality of the false personation statute, the Fourth District stated in *People v. Thoennes*, 334 Ill. App. 3d 320 (2002):

“The statute exists to protect ‘citizens who would be harmed or deceived by those acting under the color of authority.’ *People v. Ellis*, 296 Ill. App. 3d 862, 866 (1998). However, this is not necessarily the sole purpose of the statute nor does it require the possibility of harm to a citizen for an offender to be guilty of the crime. *People v. Reyes*, 328 Ill. App. 3d 918, 929 (2002). It is clear the legislature’s purpose in enacting [the false personation

statute] was to prevent the public from being deceived into believing an individual who represents himself to be a peace officer has the authority to act in an official capacity when no such authority exists. This is so even if the impersonator has no criminal purpose in mind.

A person who knowingly and falsely represents himself to be a peace officer can potentially create a dangerous situation for the unknowing public. For example, a motorist who has just witnessed a serious accident may request assistance from an impersonator believing the impersonator has the capacity to call immediately for emergency services. If the actions of the impersonator in receiving the request for assistance would reasonably lead the motorist to believe the impersonator was a peace officer, a violation would have occurred. The unsuspecting motorist might well go on her way believing that her request for assistance has been acted upon.” *Id.* at 326-27.

Here, the evidence showed that Turks did not engage in any activity that could reasonably have been construed as representing himself as a peace officer acting in such a capacity.

¶ 32 He was filling his tank at a gas station when he was approached and questioned by an unidentified stranger and, viewing the evidence in the light most favorable to the State, he authoritatively stated in response to persistent questioning that he was with “federal DHS”. Not everyone who works for DHS is a peace officer. Turks did not represent that he was a peace officer, never offered his services as a peace officer, and neither Brown nor anyone else involved

in this confrontation was relying on him for police assistance. We also note the State's acknowledgment during oral argument that Turks' use of the car, the accessorizing of the car, and his wearing of military-like clothing, independent of personation, violated no law.

¶ 33 Under these circumstances, we hold that the State failed to prove Turks guilty beyond a reasonable doubt of false personation of a police officer. See, e.g., *People v. Reinhart*, 81 Ill. App. 3d 125, 129 (1967) (holding that a defendant, who was employed as a watchman, whose actions and appearance were consistent with that job, and who made no oral representations that he was an officer, did not violate the false personation statute when the witness mistakenly assumed that the defendant was an officer).

¶ 34 Our ruling on the reasonable doubt issue obviates the need to address Turks' constitutional arguments.

¶ 35 **CONCLUSION**

¶ 36 The judgment of the circuit court of Will County is reversed.

¶ 37 Reversed.