

No. 1-12-0755

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 11 MC3 2915
)	
MYEONG H. LIM,)	Honorable
)	Bridget J. Hughes,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE LAVIN delivered the judgment of the court.
Justices Fitzgerald Smith and Pucinski concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's conviction for prostitution affirmed where evidence showed defendant offered to perform a sexual act in exchange for money at a massage parlor.

¶ 2 Following a bench trial, defendant Myeong Lim was convicted of prostitution and sentenced to one year of conditional discharge. On appeal, defendant contends that she was not proven guilty of prostitution because there was no specific mention or agreement of money in exchange for the sexual acts. We affirm.

¶ 3 At trial, Buffalo Grove police officer Robert Broussard testified that on July 13, 2011, he participated in an undercover investigation of the Sun Spa on Dundee Road based on an anonymous tip that prostitution activity was occurring there. As a few other officers waited in the parking lot, the officer went to the door of the spa, rang the doorbell and told defendant he wanted a massage. Defendant questioned his age and also asked if he was in the police department. The officer told defendant that he was 26 years old and was not in the police department. Defendant allowed the officer to enter and took him to a room with a bed, lotions and towels. Defendant told him the price of a massage was \$70 but did not specify what the massage would encompass. The officer paid defendant \$70 in prerecorded funds, undressed to his underwear and laid face down on a table in the room. Defendant massaged the officer's back and legs at first for about 15 minutes. Defendant then had him turn over and massaged his legs, chest and head for an additional 15 minutes.

¶ 4 Defendant eventually told the officer she was done with the massage and asked if there was anything else he would like. When he asked her what she meant, defendant pulled down his underwear, and tapped on his genitals. The officer asked her "how much extra" and defendant replied it was included in the \$70, but she would like an extra tip in the form of money. Defendant then put lotion on her hands and stroked the officer's penis for about three seconds until he stopped her, got dressed and identified himself as a police officer. Defendant said something like "See I told you." The officer's partners then arrived and recovered the prerecorded \$70 cash from defendant.

¶ 5 Defendant testified that she was a licensed massage therapist. After she determined the officer was of age and admitted him to Sun Spa, she explained to him that a shower, sauna and massage were included in the \$70 fee, which he paid. During the massage, the officer said "seven or eight times" he had "a little cash," to which she replied that he should "be quiet,"

noting she did not "want to hear anything about the money." After about 35 minutes, defendant had finished the massage and observed there was time remaining. She asked the officer if there was a particular "pain place" upon which he would like her to focus. The officer told her several times his girlfriend was on vacation, touched his penis and asked if she would "help" him. She replied, "don't say that." Finally, she touched the officer's penis two or three times, after which he stood up and pulled on his pants. Defendant only received \$70 and never discussed any additional money or an extra tip.

¶ 6 During closing argument, defense counsel argued that the offense of prostitution requires an exchange of money and the \$70 here was for the massage. Defense counsel further posited that a consensual sexual act or a gratuitous service is not prostitution. The court agreed with the State's position that there was a clear exchange of value for a sexual act, *i.e.*, the \$70 which was initially exchanged and then was referred to as including the act, and also defendant's request for an extra tip. The court found defendant guilty of prostitution.

¶ 7 Before sentencing, defense counsel argued defendant was not guilty of prostitution because "any discussion of money occurred after the \$70 was paid." The court disagreed, noting defendant first told the officer she would give him a massage for \$70, then offered to massage his penis, saying it was included in the price but also asking for another tip, which reasonably was intended to mean more cash at the end of the sexual act. The court finally noted the officer had testified there was a conversation between defendant and the officer before defendant touched the officer's genitals.

¶ 8 The court then imposed a sentence of one year of conditional discharge on December 6, 2011. On February 16, 2012, the court denied defendant's motion for a new trial and this appeal followed.

¶ 9 On appeal, defendant contends her conviction should be reversed because there was "no specific mention" of money to be exchanged for the genital touching.

¶ 10 When presented with a challenge to the sufficiency of evidence, our inquiry is 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 crime beyond a reasonable doubt. *People v. Givens*, 237 Ill. 2d 311, 334 (2010). We will not reverse a conviction unless the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011). The trial court must determine the credibility of witnesses, weigh the evidence, draw reasonable inferences, and resolve any conflicts in the evidence. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). All reasonable inferences from the record must be allowed in favor of the State. *People v. Givens*, 237 Ill. 2d 311, 344 (2010).

¶ 11 A defendant is guilty of prostitution if she knowingly performs, offers or agrees to perform any touching or fondling of the sex organs of another person, for anything of value, for the purposes of sexual arousal or gratification. 720 ILCS 5/11-14(a) (West 2010). We have previously employed a totality of the circumstances test when reviewing an offer or agreement surrounding an alleged act of prostitution. See *People v. DeBartolo*, 242 Ill. App. 3d 811, 820 (1993). The offer or agreement may be implied from the words and actions of the defendant taken in context, and need not be express. *DeBartolo*, 242 Ill. App. 3d at 821.

¶ 12 Here, determining whether or not the offer and ultimate performance of genital touching was linked to money pitted the officer's testimony directly against defendant's. In the officer's version of events, defendant told him the genital touching after the massage was "included" in the initial \$70 fee, but stated she would like an additional tip in the form of money. Defendant, on the other hand, admitted she touched the officer's genitals, but claimed no money or tip beyond the initial massage fee was ever discussed. The trial court was entitled to and in fact did

resolve this conflict in favor of the officer before sentencing, noting it believed there was "reasonable intent" the "tip" was "to be more cash," delivered after defendant had completed touching the officer's genitals.

¶ 13 Based on the totality of the circumstances, the evidence, and the trial court's findings, we cannot say the evidence was so improbable or unsatisfactory that no rational trier of fact could have found defendant guilty beyond a reasonable doubt.

¶ 14 For the foregoing reasons, we affirm the judgment of the trial court.

¶ 15 Affirmed.