2020 IL App (3d) 170362-U

Order filed May 20, 2020

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2020

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 14th Judicial Circuit,
	)	Henry County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal No. 3-17-0362
v.	)	Circuit No. 15-CF-275
	)	
ASHLEY J. OSTROWSKI,	)	Honorable
	)	Jeffrey W. O'Connor,
Defendant-Appellant.	)	Judge, Presiding.

PRESIDING JUSTICE LYTTON delivered the judgment of the court.
Justice Schmidt concurred in the judgment.
Justice McDade dissented.

ORDER

¶ 1 *Held*: The evidence was sufficient to prove defendant's guilt beyond a reasonable doubt.

¶ 2 Defendant, Ashley J. Ostrowski, appeals her conviction and sentence. She contends the evidence was insufficient to prove that she committed the offense of obstructing justice beyond a reasonable doubt. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant with obstructing justice (720 ILCS 5/31-4(a)(1) (West 2014)). The charge alleged that defendant committed the offense in that she knowingly furnished false information to a police officer with the intent to prevent the apprehension of Hector Fontanez. The cause proceeded to a bench trial.

¶ 5 Patrol Sergeant Nicholas Welgat testified that he was dispatched to the scene of a trespass complaint. The complainant was the ex-girlfriend of Fontanez. She called the police because Fontanez failed to leave the residence. When Welgat arrived Fontanez was no longer at the residence. The complainant informed Welgat that Fontanez had left in a black Ford Taurus belonging to defendant. Welgat relayed the information to Officer Eric Peed. Welgat instructed Peed to go to defendant's residence to locate the vehicle.

¶ 6 Welgat later joined Peed at defendant's trailer. Welgat sat in his vehicle while he watched Peed speak with defendant in front of the trailer. Peed relayed to Welgat that defendant had told him that Fontanez had left the trailer already. Peed began to leave, but Welgat "advised him to go back to the residence as [he] believed [Fontanez] was, in fact, hiding inside the trailer." According to Welgat, after he gave the instruction to Peed, "[b]asically, we pulled right back in, and as we pulled up and walked up to the residence, Mr. Fontanez then walked out of the door."

¶ 7 Peed testified that he received the dispatch to attempt to locate Fontanez as a suspect in a criminal trespass complaint. While driving on 6th Street in Kewanee, Peed saw Fontanez driving a Ford Taurus in the opposite direction. Peed turned his vehicle around and attempted to locate the Taurus. Peed went to defendant's trailer, but the Taurus was not there. He remained in the area for several minutes, and eventually observed the Taurus in defendant's driveway. Peed knocked on the door of defendant's trailer. Defendant came out and met Peed on the porch. Peed

told defendant that he wanted Fontanez to exit the trailer. Defendant told Peed that Fontanez had already left and that he was on his way to another friend's residence.

¶ 8 Next, Peed left defendant and advised Welgat that defendant told her that Fontanez was not in the trailer. Welgat told Peed to go back to defendant's trailer with him. When Peed and Welgat approached the trailer, defendant and Fontanez came outside and were both placed under arrest.

¶ 9 Defendant was interviewed at the police station by Welgat. During the interview, defendant stated she was in the vehicle with Fontanez when he drove to his ex-girlfriend's house. She stayed in the vehicle while he went inside. When he returned, Fontanez indicated to defendant that he had an argument with his ex-girlfriend. Welgat then asked defendant when they realized the police were looking for Fontanez. Defendant answered saying they had seen an officer while driving before returning to her trailer. She agreed with Welgat that both she and Fontanez had just entered her trailer when Peed arrived. Defendant also agreed that Fontanez did not want to come out initially. When defendant was asked about after Peed left, defendant responded, "I told [Fontanez] he had need to go talk to the police cause I kept asking him 'like what the hell did you do?' " When Welgat confronted defendant with lying to Peed, defendant responded, "When you guys came back though, I went in, straight into the house and told [Fontanez] he needed to call the police." Fontanez was also interviewed and when asked by Welgat why he did not exit the trailer initially he said "I just, you know, I don't want to go to jail" When Welgat then asked why Fontanez decided to come out when officers reapproached, Fontanez replied, "I don't know I was just scared, I guess."

¶ 10 II. ANALYSIS

¶ 11 On appeal, defendant argues that the evidence was insufficient to prove her guilty beyond a reasonable doubt of obstructing justice. Specifically, defendant contends that the State failed to prove that she knew that Fontanez was being investigated for a crime or that her false statement impeded the investigation. When viewing the evidence in the light most favorable to the prosecution, we find a rational trier of fact could have found defendant guilty of obstructing justice.

¶ 12 We note that under a challenge to the sufficiency of the evidence, " 'the relevant question is 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 in original.) *People v. Collins*, 106 Ill. 2d 237, 261 (1985) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). "When presented with a challenge to the sufficiency of the evidence, it is not the function of this court to retry the defendant." *Id.* Thus, "the reviewing court must allow all reasonable inferences from the record in favor of the prosecution." *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004). "A conviction will be reversed only where the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of the defendant's guilt." *People v. Belknap*, 2014 IL 117094, ¶ 67.

¶ 13 As charged in this case, a person obstructs justice when he or she knowingly furnishes false information "with the intent to prevent the apprehension or obstruct the prosecution or defense of any person." 720 ILCS 5/31-4(a)(1) (West 2014). Here, the information alleged defendant committed the offense in that she, with the intent to prevent the apprehension of Fontanez, knowingly furnished false information to the officers. Defendant asserts first that she did not have the required intent because the officers did not inform her they were investigating Fontanez. Second, defendant contends that even if this court finds that she did intend to prevent the

apprehension of Fontanez, her lie as to his whereabouts did not materially impede the investigation.

¶ 14 In addressing defendant's first argument, that defendant lacked intent to commit the offense of obstructing justice, courts have found that "[i]ntent can rarely be proved by direct evidence because it is a state of mind." *People v. Witherspoon*, 379 Ill. App. 3d 298, 307 (2008). "Instead, intent may be inferred from surrounding circumstances and thus may be proved by circumstantial evidence." *Id.* "[I]nferences as to the defendant's mental state are particularly within the province of the jury" or, in this case, the trier of fact. *People v. Rodriguez*, 2014 IL App (2d) 130148, ¶ 56. Here, defendant argues that Peed never informed her of an investigation into Fontanez. Defendant reasons that because she was not aware of an investigation, she could not obstruct it.

¶ 15 The record reveals several facts that could lead a rational trier of fact to believe defendant was aware of the investigation into Fontanez. In light of her imputed knowledge, a rational trier of fact could conclude that defendant's actions were intended to prevent the apprehension of Fontanez and obstruct the investigation. See *Witherspoon*, 379 Ill. App. 3d at 307. In her interview, defendant admits that she was with Fontanez when he drove to his ex-girlfriend's house. When Fontanez returned to the vehicle, he told defendant that he had argued with his ex-girlfriend. After that, defendant indicated that she knew police were looking for Fontanez prior to returning to her trailer. Specifically, defendant referenced noticing an officer while driving back to her trailer. Moreover, immediately after lying to Peed that Fontanez was not at the trailer, defendant went directly to Fontanez and told him he needed to talk to the police and asked: " 'what the hell did you do?' " Given these facts, we find that a rational trier of fact could conclude that the State presented evidence that defendant knew the police were investigating Fontanez and lied about his whereabouts to impede the officers' investigation. See *id.*

¶ 16 Turning to defendant's second argument, she asserts that even if we find that she did possess the intent to prevent the apprehension of Fontanez, her lie did not materially impede the investigation. Defendant points out that there was only a momentary delay in finding Fontanez. Relying on this fact, defendant asserts that she did not "materially impede" the investigation.

¶ 17 We have already held a rational trier of fact could conclude defendant knew officers were searching for Fontanez when she lied to the police about his whereabouts. When officers initially approached defendant's trailer, the purpose of the investigation at that point was to find Fontanez. Defendant told Peed he was at a friend's residence and Peed stepped away from the trailer to confer with Welgat. They discussed going to the other residence mentioned by defendant before deciding to reapproach defendant's trailer. Only then did defendant and Fontanez exit the trailer. The brief conversation between Peed and Welgat resulting in only a "momentary delay" of locating Fontanez does not negate the act of defendant. The very nature of lying about Fontanez's whereabouts created a high risk that the investigation would be compromised. See *People v. Davis*, 409 Ill. App. 3d at 462. We could speculate as to what would or could have happened if officers decided not to reapproach, but it does not matter. What defendant knew at the time she lied to police is sufficient to find her guilty beyond a reasonable doubt of obstructing justice. The "momentary delay" is not a factor because the crime occurred at the moment defendant lied. Defendant's lie did impede the investigation. She prevented the immediate apprehension of Fontanez.

¶ 18 In coming to this conclusion, we reject defendant's reliance on *People v. Comage*, 241 Ill. 2d 139 (2011), where our supreme court specifically dealt with defining the term "conceal" as it relates to tangible evidence and the obstructing justice statute. *Comage* concerns tangible evidence that cannot get up and walk away on its own. *Id.* Here, we have officers actively looking for a person whose whereabouts are unknown. The police were searching for Fontanez when defendant

lied about his whereabouts. These facts are not comparable to a defendant emptying his pockets while fleeing police where police see this and later recover evidence of drugs or paraphernalia. *Id.* at 141-43.

¶ 19 III. CONCLUSION

¶ 20 The judgment of the circuit court of Henry County is affirmed.

¶ 21 Affirmed.

¶ 22 JUSTICE McDADE, dissenting:

¶ 23 I respectfully dissent. Viewing the evidence in the light most favorable to the State, I cannot find it proved, beyond a reasonable doubt, that the defendant committed the offense of obstructing justice.

¶ 24 As charged in this case, a person obstructs justice when she knowingly furnishes false information "with the intent to prevent the apprehension or obstruct the prosecution or defense of any person." 720 ILCS 5/31-4(a)(1) (West 2014). In *People v. Comage*, 241 Ill. 2d 139, 149 (2011), our supreme court stated:

> "The subject addressed by section 31-4 is 'obstructing justice.' Obstruction of justice is an attempt to interfere with the administration of the courts, the judicial system, or law enforcement agencies. 'The phrase "obstructing justice" as used in connection with offenses arising out of such conduct means impeding or obstructing those who seek justice in a court or those who have duties or powers of administering justice in courts.' 67 C.J.S. Obstructing Justice § 1, at 67 (2002). Thus, in enacting section 31-4, the legislature intended to criminalize behavior that actually

> interferes with the administration of justice, i.e., conduct that 'obstructs prosecution or defense of any person.' " (Emphasis in original.)

¶ 25 The majority's analysis conveniently ignores the above quote's emphasized word: *actually*. While I do not condone defendant's behavior of lying to the police, her false statement did not "*actually* interfere[ ] with the administration of justice." *Comage*, 241 Ill. 2d at 149. Instead, it merely delayed Peed momentarily from finding Fontanez. Peed observed Fontanez driving the black Ford Taurus and ultimately found the vehicle parked outside defendant's trailer. Peed therefore likely believed that Fontanez would be found inside defendant's trailer. Despite her initial falsehood to Peed, Welgat also still believed that Fontanez was inside the trailer. When Peed informed Welgat of defendant's false statement, Welgat's immediate response was to instruct Peed to return to the trailer. When Welgat and Peed arrived at the trailer Fontanez was waiting outside. Unlike the majority, I would conclude that the exceedingly brief delay caused by defendant's false statement is insufficient to establish that defendant *actually* interfered with the investigation. *Comage*, 241 Ill. 2d at 149, see also *People v. Taylor*, 2012 IL App (2d) 110222, ¶ 19 (holding that a false statement did not materially impede the administration of justice). I would therefore reverse defendant's conviction and vacate her sentence for obstructing justice.