SUPREME COURT OF ILLINOIS

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September 25, 2019

In re: People State of Illinois, respondent, v. William L. Lewis, petitioner.
Leave to appeal, Appellate Court, Second District.
124833

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 10/30/2019.

Very truly yours,

Carolyn Taft Grosboll

Clerk of the Supreme Court

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No. 2-16-1048
Summary Order filed March 20, 2019

NOTICE: This order was filed under Supreme Court Rule 23(c)(2) and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Lake County.
Respondent-Appellee,	)	
v.	)	No. 16-CF-1033
WILLIAM L. LEWIS,	)	Honorable Patricia S. Fix,
Petitioner-Appellant.	)	Judge, Presiding.

JUSTICE McLAREN delivered the judgment of the court.
Presiding Justice Birkett and Justice Hudson concurred in the judgment.

SUMMARY ORDER

¶ 1 Following a bench trial, defendant, William L. Lewis, was convicted of aggravated robbery (720 ILCS 5/18-1(b)(1) (West 2016)). The court sentenced him to 20 years' imprisonment and ordered him to pay various fines and fees. On appeal, defendant contends that (1) his identity as the perpetrator was not proved beyond a reasonable doubt and (2) he is entitled to credit toward his fines for each day he spent in presentencing detention. We affirm as modified.

¶ 2 Evidence presented at trial revealed that defendant's mother, Sarah Parks, a convicted felon who had "put [defendant] out," was driving around with her friend, David Turkowski, when defendant called her, asking her to bring him some food that he had left in her freezer. Parks retrieved the food, and she and Turkowski, who had met defendant a few times, went to give it to defendant outside a homeless shelter. Instead of taking the food, defendant jumped in the backseat of the car, ordered Turkowski to drive around, and hit Turkowski in the back of his head, knocking Turkowski's glasses off. While threatening them with a knife, defendant demanded that Parks and Turkowski give him money. Soon thereafter, Parks exited the car and called 911. Turkowski continued driving with defendant in the car. Turkowski testified that defendant then "kind of hit me *** and [there] was a point where he stabbed me" under the right side of the jaw. Turkowski stopped the car at a Family Dollar store, gave defendant his wallet, and then drove himself to the police station. Although the investigating officer saw Turkowski at the station, he did not question him there, as Turkowski was soon transferred to the hospital where he was treated for his life-threatening injury. At the hospital, Turkowski, who appeared tired and "kind of" confused, described the robber as a black man in his thirties and said that " 'Sarah's son' " had stabbed him. Right after Turkowski was released from the hospital, he viewed a photo array at the police station. Turkowski, who never found his glasses and was wearing a pair with an old prescription, could not identify who had stabbed and robbed him. Turkowski, who was 71 years old, was not asked to identify the assailant in court. This timely appeal followed.

¶ 3 The first issue we consider is whether defendant's identity as the robber was proved at trial. When a defendant challenges the sufficiency of the evidence, we ask whether, after viewing all the evidence in the light most favorable to the prosecution, a rational trier of fact

could have found the elements of the offense beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill.2d 1, 8 (2011). In doing so, we may not substitute our judgment for that of the trier of fact on questions involving the weight of the evidence, the credibility of the witnesses, or the resolution of conflicting testimony. *People v. Campbell*, 146 Ill. 2d 363, 375 (1992). A positive identification by a single witness who had a sufficient opportunity to observe the defendant is enough to support a conviction. *People v. Johnson*, 114 Ill. 2d 170, 189 (1986). However, a doubtful, vague, or uncertain identification is not. *People v. Slim*, 127 Ill. 2d 302, 307 (1989).

¶ 4 The evidence established beyond a reasonable doubt that defendant was the perpetrator. The only people in the car before Turkowski was stabbed and had his wallet taken were Parks, Turkowski, and defendant. Defendant demanded money from Parks and Turkowski while threatening them with a knife, and soon thereafter, after Parks had gotten out, Turkowski was stabbed in the neck. Turkowski described the assailant as a black man in his thirties and as " 'Sarah's son,' " which defendant was.

¶ 5 Defendant notes that Turkowski did not identify him in the photo array or at trial. Neither of these points is controlling. First, "[t]he fact that a witness does not positively identify a *defendant at trial *** does not render his testimony invalid.*" *People v. Herret, 137 Ill. 2d 195*, 204 (1990). Rather, "it simply affects the weight the trier of fact will give the evidence." *Id.* Likewise, the fact that a witness could not identify his assailant in a photo array does not mean that the defendant's guilt was not proved beyond a reasonable doubt. See *People v. Dereadt*, 2013 IL App (2d) 120323, ¶ 25. It is not surprising that Turkowski was unable to identify defendant in the photo array given that he was elderly, was wearing an old pair of glasses, and was asked to do so right after being released from treatment of a life-threatening injury.

¶ 6 Defendant also notes that the police did not lift any fingerprints from the back of the car and that Parks was a convicted felon. Again, neither of these things is controlling. The lack of physical evidence connecting a defendant to the crime does not require reversal. See *People v. Herron*, 2012 IL App (1st) 090663, ¶ 23. Similarly, the fact that Parks was a convicted felon, even when added to the fact that she "put [defendant] out," merely affected the weight to be given her testimony. See *People v. Kester*, 78 Ill. App. 3d 902, 907 (1979). To suggest that Parks had a motive to falsely accuse defendant is simply not supported by the evidence, as the record does not disclose why Parks asked defendant to move out and it seems unlikely that Parks would willingly meet with defendant to bring him food if she was upset with him.

¶ 7 We next address whether defendant is entitled to credit against his fines for each day he spent in presentencing custody. The State concedes that the following fines that were imposed upon defendant are subject to credit under section 110-14(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-14(a) (West 2016)): (1) the $25 "Court System Guilty/Supervision Fee" (55 ILCS 5/1101(c)(2) (West 2016)) (see *People v. Smith*, 2013 IL App (2d) 120691, ¶ 21); (2) the $10 "Arrestee Medical" assessment (730 ILCS 125/17 (West 2016)) (see *People v. Smith*, 2014 IL App (4th) 121118, ¶ 46); (3) the $5 "Children's Advocacy Center" charge (55 ILCS 5/5-1101(f-5) (West 2016)) (see *Smith*, 2013 IL App (2d) 120691, ¶ 16); (4) the $50 "County" *assessment (55 ILCS 5/5-1101(c)(1) (West 2016))*[1] *(see Smith, 2013 IL App (2d) 120691, ¶ 17);*

[1] The sentencing order indicates that the charge was assessed under both subsection (a) and subsection (c) of section 5-1101 of the Counties Code (*id.* § 5-1101 (West 2016)). However, subsection (a) applies to traffic offenses only and authorizes the imposition of a charge between $5 and $30 (id. § 5-1101(a). Subsection (c) authorizes a $50 charge for "a felony" (*id.* § 5-1101(c)(1), which is what the trial court assessed here.

(5) the $4.75 "Drug Court Fee" (55 ILCS 5/5-1101(f) (West 2010)) (see *Smith*, 2013 IL App (2d) 120691, ¶ 16); (6) the $10 "Specialty Court Fee" (55 ILCS 5/1101(d-5) (West 2016)) (see *People v. Graves*, 235 Ill. 2d 244, 255 (2009)); (7) the $12 "State Police Operations Assistance" fine (705 ILCS 105/27.3a(1.5) (West 2016)) (see *Smith*, 2013 IL App (2d) 120691, ¶ 16); and (8) the $10 "State Police Service" charge (730 ILCS 5/5-9-1.17(b) ((West 2016)) (see *Smith*, 2013 IL App (2d) 120691, ¶ 16). As defendant was incarcerated for 216 days before sentencing, he is entitled to a $1080 credit against these fines. Thus, under Illinois Supreme Court Rule 615(b)(1) (eff. Jan. 1, 1967), we modify the trial court's sentencing order to reflect that these fines, totaling $126.75, are satisfied by the $1080 credit.

¶ 8 For the reasons stated, the judgment of the circuit court of Lake County is affirmed as modified. As part of our judgment, we grant the State's request that defendant be assessed $50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2016); see also *People v. Nicholls*, 71 Ill. 2d 166, 178 (1978).

¶ 9 Affirmed as modified.

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