2021 IL App (3d) 190365-U

Order filed September 10, 2021

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2021

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 21st Judicial Circuit,
	)	Kankakee County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal No. 3-19-0365
v.	)	Circuit No. 18-CM-701
	)	
STEVE STROUD,	)	Honorable
	)	Clark E. Erickson,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE DAUGHERITY delivered the judgment of the court.
Justices Lytton and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court erred by finding defendant guilty before it gave defendant the opportunity to present evidence.

¶ 2 Defendant, Steve Stroud, appeals his convictions for obstructing a peace officer. Defendant argues that the Kankakee County circuit court (1) prejudged his guilt prior to the conclusion of evidence, and (2) violated the one-act, one-crime doctrine when it found defendant guilty of two counts of the same offense. We reverse and remand for further proceedings.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant by information with three counts of obstructing a peace officer. Count I alleged that defendant knowingly refused to provide his name to Officer Tyler Bailey, knowing him to be a peace officer (720 ILCS 5/31-4.5(a)(2) (West 2016)). Counts II and III alleged that defendant knowingly obstructed the performance of two peace officers performing an authorized act when defendant refused to exit his vehicle (*id.* § 31-1). Prior to trial, the State dismissed count I and proceeded to trial on counts II and III. At trial, defendant proceeded as a self-represented litigant.

¶ 5 During a bench trial, Officer Bailey of the Bradley Police Department testified that on October 24, 2018, he initiated a traffic stop on a vehicle. Bailey observed two occupants inside, a female driver, and a male passenger. The male passenger refused to give Bailey his name. Through the vehicle registration, Bailey learned that the vehicle was registered to Noel Butler and defendant. Bailey confirmed that defendant was the male passenger. Bailey also learned that there was a warrant for defendant's arrest. When Officer Solo-Veno Pina arrived, Bailey and Pina approached the vehicle together. Bailey requested several times that defendant exit the vehicle, and defendant failed to comply. After waiting approximately one minute for defendant to exit, Pina placed handcuffs on defendant. With the assistance of Pina, defendant exited the vehicle and was placed under arrest.

¶ 6 Pina testified that he responded to Bailey's traffic stop on October 24, 2018. When he arrived, Bailey informed Pina that defendant had refused to give his name. Bailey verified that defendant owned the vehicle and was the male passenger. Both officers informed defendant of his outstanding warrant and requested that he exit the vehicle several times. Pina placed defendant in handcuffs, and defendant exited the vehicle.

¶ 7 Following the conclusion of the State's evidence, the court had the following colloquy with defendant:

"THE COURT: *** [Defendant], you don't have to testify—

[DEFENDANT]: I'm not. I'm invoking my Fifth Amendment.

THE COURT: Okay.

I find you guilty on Counts 2 and 3. Judgment of conviction is entered. Although, did you wish to argue?

[DEFENDANT]: Hmm?

THE COURT: Did you wish to argue your case?

[DEFENDANT]: Yes.

* * *

THE COURT: *** [C]ertainly *** my initial inclination is to find you guilty, but I do want to give both you and the State an opportunity to argue."

¶ 8 Following the State and defendant's closing arguments, the court found defendant guilty of counts II and III. The court sentenced defendant to 12 months' conditional discharge and two days in jail. Defendant appeals.

¶ 9 II. ANALYSIS

¶ 10 Defendant argues the circuit court violated his right to a fair trial by prejudging his guilt prior to the close of evidence. Defendant acknowledges that he forfeited this error by failing to raise the issue at trial or in a posttrial motion. See *People v. Hillier*, 237 Ill. 2d 539, 544 (2010). Defendant asks that we review his claim under the second prong of the plain error doctrine.

¶ 11 The first step in the plain error analysis is to determine whether a "plain error" occurred. *People v. Piatkowski*, 225 Ill. 2d 551, 564-65 (2007). "The word 'plain' here is synonymous with

'clear' and is the equivalent of 'obvious.' " *Id.* at 565 n.2. If the reviewing court determines that the circuit court committed a clear or obvious error, it then must determine whether the error is reversible. *Id.* at 566. A plain error is reversible when (1) the evidence is so closely balanced that the error alone threatened to tip the scales of justice against defendant, or (2) the error is so serious that it affected the fairness of defendant's trial and challenged the integrity of the judicial process. *Id.* at 564-65. Our supreme court has equated the second prong plain error with structural error noting " 'automatic reversal is only required where an error is deemed "structural," *i.e.*, a systemic error which serves to "erode the integrity of the judicial process and undermine the fairness of the defendant's trial." ' " *People v. Thompson*, 238 Ill. 2d 598, 613-14 (2010) (quoting *People v. Glasper*, 234 Ill. 2d 173, 197-98 (2009), quoting *People v. Herron*, 215 Ill. 2d 167, 186 (2005)). Defendant bears the burden of establishing that the plain error doctrine has been satisfied. *Hillier*, 237 Ill. 2d at 545.

¶ 12 The right to an unbiased, open-minded trier of fact is fundamental and rooted in the constitutional guaranty of due process of law. *People v. McDaniels*, 144 Ill. App. 3d 459, 462 (1986). A defendant "has 'the right to present a defense, the right to present the defendant's version of the facts.' " *People v. Manion*, 67 Ill. 2d 564, 576 (1977) (quoting *Washington v. Texas*, 388 U.S. 14, 19 (1967)). No matter how strong the State presents its case, it is fundamental that the court should resolve the disputed issues of fact only after hearing all of the evidence with an open mind. *People v. Darnell*, 190 Ill. App. 3d 587, 591 (1989). "A trial judge is presumed to be impartial, and the burden of overcoming this presumption rests on the party making the charge of prejudice." *People v. Faria*, 402 Ill. App. 3d 475, 482 (2010) We review *de novo* issues regarding the denial of due process. *People v. Bradley*, 2017 IL App (4th) 150527, ¶ 13.

¶ 13 In the present case, the record shows that the court announced its guilty finding before it gave defendant an opportunity to present evidence or argue. After realizing its mistake, but before closing arguments occurred, the court informed the parties that its "inclination [was] to find [defendant] guilty." Such a finding must only be made after the court has heard all of the evidence and arguments of the parties. *Darnell*, 190 Ill. App. 3d at 591; see *McDaniels*, 144 Ill. App. 3d at 463. Accordingly, this is a plain error, and because it affects at the very least the perceived fairness and integrity of the judicial process, this plain error requires reversal under the second prong. See *Piatkowski*, 225 Ill. 2d at 564-65; see also *Thompson*, 238 Ill. 2d at 613.

¶ 14 In reaching this conclusion, we need not address defendant's claim regarding a violation of the one-act, one-crime doctrine.

¶ 15 III. CONCLUSION

¶ 16 The judgment of the circuit court of Kankakee County is reversed and remanded.

¶ 17 Reversed and remanded.