No. 128871

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	On Appeal from the Appellate
	)	Court of Illinois, First Judicial
Plaintiff-Appellee,	)	District, No. 1-21-0808
	)	
	)	There on Appeal from the
v.	)	Circuit Court of Cook County,
	)	Illinois, No. 20 CR 10002
	)	
SANTANA GRAYER,	)	The Honorable
	)	Vincent M. Gaughan,
Defendant-Appellant.	)	Judge Presiding.

BRIEF OF PLAINTIFF-APPELLEE
PEOPLE OF THE STATE OF ILLINOIS

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NATURE OF THE CASE

Defendant, Santana Grayer, was found guilty of attempted vehicular hijacking following a Cook County bench trial. C115.[1] The appellate court affirmed the judgment, A23, and defendant appeals from that judgment.

ISSUE PRESENTED

Whether the evidence was sufficient to prove defendant guilty of attempt vehicular hijacking. Specifically, defendant's argument asks this Court to determine whether the People proved defendant had the specific intent to commit vehicular hijacking and whether defendant's voluntary intoxication is not relevant to that question.

JURISDICTION

Jurisdiction lies under Supreme Court Rules 315 and 602. This Court allowed defendant leave to appeal on November 30, 2022.

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[1] Citations to defendant's appendix, the common law record, the report of proceedings, and defendant's opening brief appear as "A_," "C_," "R_," and "Def. Br. __," respectively.

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STATUTORY PROVISIONS INVOLVED

Section 6-3. Intoxicated or drugged condition.

A person who is in an intoxicated or drugged condition is criminally responsible for conduct unless such condition is involuntarily produced and deprives him of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

720 ILCS 5/6-3.

Section 8-4. Attempt.

(a) Elements of the offense.

A person commits the offense of attempt when, with intent to commit a specific offense, he or she does any act that constitutes a substantial step toward the commission of that offense.

(b) Impossibility.

It is not a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accused to commit the offense attempted.

* * *

720 ILCS 5/8-4.

Section 18-3. Vehicular hijacking.

(a) A person commits vehicular hijacking when he or she knowingly takes a motor vehicle from the person or the immediate presence of another by the use of force or by threatening the imminent use of force.

* * *

720 ILCS 5/18-3.

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STATEMENT OF FACTS

Defendant was charged with attempted vehicular hijacking for trying to wrest control of a rideshare driver's car through force and threats of violence during a drunken Lyft ride. C14.[2]

Trial

The evidence at defendant's bench trial showed that Arnold Ong was working as a Lyft driver. R34-35. Early one evening, Ong received a request from a woman named Phyllis — via the Lyft app — to pick up defendant from a party that she and defendant were attending. R37-38. When Ong arrived, defendant walked to the car under his own power, although he was swaying as if intoxicated, R54, and got into the back seat, R38.

Ong began following the directions that the Lyft app provided to get to the destination Phyllis had entered when she requested the ride, but after several minutes, defendant told Ong that he was going the wrong way. R39. When Ong responded that he was going the correct way, defendant raised his voice and said he wanted to drive the car himself. R39. After Ong told defendant that he could not drive the car, defendant "got mad" and grabbed Ong's shirt near Ong's shoulder. R40-41, 59. Defendant repeatedly grabbed Ong's shirt and shoulder while demanding in a raised voice that Ong let him

[2] Lyft "operates an on-demand transportation network that uses a smartphone application (or 'app') to connect individuals in search of rides with drivers willing to provide them using their personal vehicles." *Doe v. Lyft, Inc.*, 2020 IL App (1st) 191328, ¶ 3.

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drive. R41. Then, defendant reached towards his waist — Ong believed he was reaching for a weapon — and said, "I'm going to kill you." R42.

After defendant repeated this threat, Ong "realized [his] life was at stake" and he was "scared." R43. He pulled into the nearest gas station to seek help. R43. Ong took his phone and car keys and got out of his car. R43. Ong did not lock the car doors because he was in a hurry to get away from defendant, and the remote on his key fob did not work; to lock the doors, he would have had to stop and lock the doors manually. R64-65. Defendant chased Ong in circles around the car — albeit, at a walking pace — until Ong fled into the gas station convenience store, where someone called 9-1-1. R43-44, 65.

After the bystander called 9-1-1, Ong stepped outside to check on his car. R45. Defendant was standing next to the car, looking towards Ong, and waving Ong's housekeys, which defendant had taken from the cupholder by the front seat. R45-46, 51. Defendant sat in the driver's seat, R67, and then appeared to reach forward several times, as if attempting start the car with Ong's housekeys. Peo. Exh. 1, 3840 at 00:00-00:45[3]; R87 (trial court characterizing defendant's movement as "a motion towards where the ignition would be as if to start the car").

[3] For the Court's convenience, the People cite the video files on People's Exhibit 1 using the same convention that defendant used in his opening brief.

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When police arrived, they found defendant sitting in the driver's seat of Ong's car. R72. Ong told police that defendant had threatened to kill him, although he did not mention at the time that he thought defendant had a gun. R75, 76.

The trial court found defendant guilty of attempted vehicular hijacking, R87, and sentenced him to five-and-a-half years in prison and two years of mandatory supervised release, R129.

Appeal

As relevant here, defendant argued on appeal that the People failed to prove him guilty of attempted vehicular hijacking because the evidence was insufficient to prove he had the specific intent to commit vehicular hijacking. A14. Relying on *People v. Slabon*, 2018 IL App (1st) 150149, defendant argued that he was so (voluntarily) intoxicated at the time of the offense that he was unable to form the necessary intent. A15. The appellate court affirmed defendant's conviction, holding that the evidence was sufficient to prove that defendant had the specific intent to commit vehicular hijacking. A18. The court found that defendant's reliance on *Slabon* was misplaced because "*Slabon* misstates the law on voluntary intoxication as it stands today." A17. Moreover, the court held, the evidence showed that defendant was not so intoxicated "as to suspend entirely his power of reasoning." A18.

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STANDARDS OF REVIEW

This Court reviews the sufficiency of the evidence of defendant's specific intent to commit vehicular hijacking by considering whether, after viewing the evidence in the light most favorable to the People, any rational trier of fact could have found that element of the offense beyond a reasonable doubt. *People v. Brand*, 2021 IL 125945, ¶ 58. Whether voluntary intoxication is irrelevant to defendant's intent raises a question of statutory interpretation, which this Court reviews *de novo*. *In re Jarquan B.*, 2017 IL 121483, ¶ 21

ARGUMENT

This Court should affirm the appellate court's judgment because, viewed in the light most favorable to the People, the evidence was sufficient to establish that defendant took multiple steps with the specific intent of taking Ong's car through the use or threat of force. The General Assembly has unambiguously provided that defendant's voluntary intoxication cannot absolve him of criminal liability for that conduct. In any event, the record shows that defendant was not so intoxicated that he was rendered incapable of recognizing that his actions were illegal or abiding by the law.

I. The Evidence Was Sufficient to Prove Specific Intent.

The evidence was sufficient to establish each element of attempted vehicular hijacking beyond a reasonable doubt. In reviewing a challenge to the sufficiency of the evidence, it is not this Court's function to retry the

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defendant or to substitute its judgment for that of the trier of fact on questions involving the weight of the evidence or the credibility of witnesses. *People v. Jones*, 2023 IL 127810, ¶ 28. Rather, this Court asks whether, when viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Id.* A criminal conviction will not be overturned unless the evidence is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of the defendant's guilt. *Id.*

Viewed in the light most favorable to the prosecution, the evidence was sufficient to prove each element of attempted vehicular hijacking. To prove this offense, the evidence needed to show that defendant (1) performed an act that constituted a substantial step toward the commission of the offense of vehicular hijacking; and (2) did so with the intent to commit that offense. 720 ILCS 5/8-4. Vehicular hijacking is defined as taking a motor vehicle from a person or the immediate presence of a person by the use of force or by threatening the imminent use of force. 720 ILCS 5/18-3. Thus, the evidence had to show that defendant performed an act that constituted a substantial step toward taking Ong's car by the use or threat of force and that defendant did so with the intent of taking Ong's car by the use or threat of force. *See* Illinois Pattern Jury Instructions, Criminal, No. 6.07 (approved Oct. 17, 2014); Illinois Pattern Jury Instructions, Criminal, No. 14.22 (approved July 18, 2014).

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Defendant does not dispute that the evidence was sufficient to prove the first element of intent — that he took substantial steps towards taking Ong's car through the use or threat of force. Nor could he dispute this element: the evidence showed that defendant repeatedly grabbed Ong and threatened him while trying to seize control of the car, and then tried to start the car after Ong fled. Instead, defendant argues only that the evidence was insufficient to establish that when he grabbed and threatened Ong while trying to seize control of the car, he did so with the intent to take the car from Ong. He is wrong.

The evidence proved that defendant intended to commit the specific offense of vehicular hijacking. *See People v. Terrell*, 99 Ill. 2d 427, 431 (1984) (evidence must prove intent to commit a specific crime). The intent to commit that crime need not be expressed but may be inferred from defendant's conduct and the surrounding circumstances. *Id*; *see also People v. Mulcahey*, 72 Ill. 2d 282, 286 (1978) (defendant had specific intent to commit armed robbery even though he did not explicitly demand money from victim where evidence showed that he was armed and had arranged for victim to meet him with bag of money). But here defendant *did* express his intent to take Ong's car by repeatedly and specifically demanding that Ong give him control of the car while grabbing Ong and threatening to kill him. Moreover, viewed in the light most favorable to the prosecution, once the terrified Ong stopped the car and fled into the gas station convenience store, defendant

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took Ong's housekeys, sat in the driver's seat, and appeared to try to start the car so that he could drive away in it. A rational factfinder could, as the trial court in fact did, reasonably conclude that defendant used both force and the threat of imminent force to drive Ong from his own car with the intent to take it from him.

Defendant's argument that "the evidence only showed that [he] wanted to go home and that he pulled on his Lyft driver's sleeve because he believed he was being driven in the wrong direction," Def. Br. 26, mistakenly focuses on the *reason* that defendant tried to take Ong's car by force. But it does not matter *why* defendant intended to take Ong's car by force, whether to drive it home or somewhere else, only that he intended to take Ong's car by force. Moreover, defendant's assertion that he grabbed Ong's shoulder merely to give him directions ignores that defendant also threatened to kill Ong. Similarly, defendant's assertion that he never "attempted to take control of the car while Ong was driving," Def. Br. 29, ignores that defendant loudly and repeatedly demanded that Ong give him control of the car, then tried to take the car after Ong fled.

Furthermore, defendant's attempt to dismiss his threats and demands as "mere drunken hyperbole," Def. Br. 30, turns the sufficiency standard on its head. In the context of a sufficiency review, the evidence need not exclude every reasonable alternative explanation consistent with defendant's innocence, and the trial court — as finder of fact — was free to reject this

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hypothetical alternative explanation for defendant's conduct. *See, e.g.*, *People v. Fields*, 2013 IL App (2d) 120945, ¶ 30; *see also People v. Pintos*, 133 Ill. 2d 286, 291 (1989) (abandoning "the reasonable hypothesis of innocence" standard in favor of *Jackson* standard). Indeed, under the sufficiency standard, all reasonable inferences from the evidence must be drawn in favor of the People. *People v. Gonzalez*, 239 Ill. 2d 471, 478 (2011) (citing *People v. Jackson*, 232 Ill. 2d 246, 281 (2009)). In other words, the sufficiency standard requires that this Court draw the reasonable inference from defendant's use of threats and force while demanding control over Ong's car that his conduct reflected his specific intent to take Ong's car through the use or threat of force, rather than the inference in defendant's favor — that when he threatened and grabbed Ong while demanding control of his car, he did not really *mean* it.

Defendant's dismissal of the trial court's conclusion that defendant got into the driver's seat, took Ong's housekeys from the cupholder, and made "a motion towards where the ignition would be as if to start the car," Def. Br. 33 (quoting R87), is misplaced for similar reasons. Even if defendant "could have just as easily been reaching for the radio, a cup holder, or anything else in front of him," Def. Br. 34, the trial court was free to draw the reasonable inference that defendant — who had already demanded to drive Ong's car — was attempting to take the car using the keys that he found inside. And for

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purposes of this Court's sufficiency review, it *must* draw that inference in the People's favor.

In sum, viewing the evidence in the light most favorable to the People, and drawing all reasonable inferences in the People's favor, the evidence was plainly sufficient to prove that defendant had the specific intent to take Ong's car through the use of force or threats.

II. Voluntary Intoxication Cannot Excuse Defendant's Criminal Responsibility.

Nor can defendant evade responsibility for his criminal conduct solely because he was voluntarily intoxicated. The plain language of section 6-3 of the Criminal Code, 720 ILCS 5/6-3, makes clear that defendant's voluntary intoxication is irrelevant to this Court's evaluation of the sufficiency of the evidence. Since 2002, section 6-3 has provided that "[a] person who is in an intoxicated or drugged condition is criminally responsible for conduct unless such condition is involuntarily produced and deprives him of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law." 720 ILCS 5/6-3. Accordingly, by the plain language of the statute, a defendant's *voluntary* intoxication does nothing to alleviate responsibility for otherwise criminal conduct. *See People v. Pearse*, 2017 IL 121072, ¶ 41 (cardinal rule of statutory construction is to ascertain and give effect to the General Assembly's intent); *In re Hernandez*,

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2020 IL 124661, ¶ 18 (best indicator of legislative intent is the statutory language, given its plain and ordinary meaning).

The People agree with defendant that the 2002 amendment to section 6-3 did not alleviate the People's evidentiary burden of proving intent, like any other element of the offense under section 8-4, 720 ILCS 5/8-4, beyond a reasonable doubt. *See* Def. Br. 16-17. But as explained, *see supra* § I, the evidence was plainly sufficient for the trial court to conclude that defendant intended to take Ong's car by use or threat of force when he grabbed Ong, demanded to drive his car, threatened to kill him, and then attempted to take Ong's car after Ong fled in fear of his life. Under the unambiguous language of section 6-3, defendant's intoxicated state cannot relieve him of criminal liability for that conduct "unless such condition [wa]s involuntarily produced," 720 ILCS 5/6-3, which defendant admits it was not.

Because section 6-3's language is clear and unambiguous, defendant's appeal to legislative history is unavailing. *See* Def. Br. 19-21. When the statutory language is clear and unambiguous, this Court applies it as written without resort to aids of statutory construction. *People v. Williams*, 2016 IL 118375, ¶ 15. But even if the Court looks to legislative history, the history on which defendant relies is unpersuasive because it consists of statements by individual legislators. "'Legislative intent'" speaks to the will of the legislature as a collective body, rather than the will of individual legislators." *Morel v. Coronet Insurance Co.*, 117 Ill. 2d 18, 24 (1987). Accordingly, "courts

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generally give statements by individual legislators in a floor debate little weight when searching for the intent of the entire legislative body," for "[s]uch statements by themselves do not affirmatively establish the intent of the legislature." *People v. R.L.*, 158 Ill. 2d 432, 442 (1994); *see also Aldridge v. Williams*, 44 U.S. 9, 24 (1844) ("In expounding this law, the judgment of the court cannot, in any degree, be influenced by the construction placed upon it by individual members of Congress in the debate which took place on its passage. . . . The law as it passed is the will of the majority of both houses, and the only mode in which that will is spoken is in the act itself."); *see also Conroy v. Aniskoff*, 507 U.S. 511, 519 (1993) ("We are governed by laws, not by the intentions of legislators.) (Scalia, J., concurring)).

In any event, the legislative history on which defendant relies undermines any notion that the General Assembly collectively intended to return to the pre-1961 common law rule that voluntary intoxication was relevant to prove *mens rea* in specific intent crimes. Indeed, the limited utility of treating one member's floor speech as representative of the body's collective intent is illustrated by the floor speech of one of the Senator who rose in support of the 2002 amendment. That Senator explained that he supported the amendment because he believed that "nothing in [it] would, in any way, affect the ability to introduce any evidence, including evidence of voluntary intoxication, which might go to negate the required mental state for any individual criminal offense." 92d Ill. Gen. Assem., Senate

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Proceedings, Mar. 20, 2001, at 34 (statement of Senator Hawkinson). The Senator's statements made clear that he believed the amendment would not affect the relevance of voluntary intoxication with respect to any possible *mens rea*, "whether it be willfulness, intentionalness, knowledge, recklessness, and so forth." *Id.* But, as defendant concedes, Def. Br. 17-18, the Senator was not accurately describing the pre-1961 common law rule, for voluntary intoxication was only relevant to general intent crimes between 1961 to 2001, when it was explicitly included in section 6-3. Because the only reason voluntary intoxication was ever relevant to *mens rea* in general intent offenses was that it was included in section 6-3, the General Assembly cannot possibly have intended its removal of voluntary intoxication from section 6-3 to have no effect on that relevance. For the General Assembly to believe that removing voluntary intoxication from section 6-3 had no effect on its relevance to *mens rea*, the General Assembly would have to believe that the entire amendment was meaningless. *See People v. Marshall*, 242 Ill. 2d 285, 292 (2011) (this Court will "construe the statute to avoid rendering any part of it meaningless").

Thus, the legislative history here demonstrates the difficulty in deducing the General Assembly's collective intent from a single statement by a single Senator. *See Conroy*, 507 U.S. at 519 (Scalia, J., concurring) ("Judge Harold Leventhal used to describe the use of legislative history as the equivalent of entering a crowded cocktail party and looking over the heads of

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the guests for one's friends."). Indeed, the legislative history also demonstrates why this Court should decline defendant's invitation to revive voluntary intoxication as an excuse for criminal liability in specific intent cases. The bill's sponsor explained:

> This legislation is in response to an incident where a Rock Island County man, after drinking at a neighborhood bar, went home, slipped into the bed of his daughter's eleven-year-old friend and allegedly fondled her. The man asserted that his drunken stupor was so extreme so as to suspend his power of reason and therefore rendered him incapable of forming the requisite intent to commit sexual abuse. The court found the man not guilty.

92d Ill. Gen. Assem., Senate Proceedings, Mar. 20, 2001, at 34 (statement of Senator Jacobs). But under defendant's reading of the amended statute, voluntary intoxication *would* still be a valid defense to a charge of attempt criminal sexual abuse because attempt is a specific intent offense. It would be absurd to believe that the General Assembly intended that this man's drunkenness would excuse any attempt to sexually abuse the child as long as he was somehow prevented from succeeding, perhaps because his victim screamed loud enough to wake others or someone happened by. *See People v. Davidson*, 2023 IL 127538, ¶ 18 (reading statute to avoid absurd result).

In any event, there is no merit to defendant's argument that section 6-3 governs only intoxication as an affirmative defense, and not to negate intent, Def. Br. 19-22, because this Court has already held that there is no distinction between raising voluntary intoxication as an affirmative defense and raising it to challenge the sufficiency of the People's evidence of specific

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intent. From 1961 to 2002, section 6-3 provided that voluntary intoxication was an affirmative defense. Accordingly, in 1983, this Court held that voluntary intoxication "may be used to negate the existence of the mental state which is an element of the crime," and that such defense is "governed by section 6-3." *People v. Free*, 94 Ill. 2d 378, 407-08 (1983) (citing Ill. Rev. Stat. 1977, ch. 38, par. 6-3). In fact, the affirmative defense of voluntary intoxication was generally understood as being synonymous with undermining the sufficiency of the People's proof of *mens rea*. *See, e.g.*, *People v. Reece*, 228 Ill. App. 3d 390, 394 (5th Dist. 1992) ("voluntary intoxication is an affirmative defense which excuses the conduct charged if the intoxication is so extreme as to suspend the power of reason and render the defendant incapable of forming the specific intent which is an element of the offense charged" (citing collected cases and Ill. Rev. Stat. 1989, ch. 38, par. 6-3)); *People v. Camp*, 201 Ill. App. 3d 330, 335 (1st Dist. 1990) ("Voluntary intoxication is available as a defense to a specific intent offense where its effect is to negate the defendant's mental state where such mental state is an element of the offense." (citing *People v. Hillenbrand*, 121 Ill. 2d 537, 555 (1988)); *People v. Stillman*, 61 Ill. App. 3d 446, 449 (4th Dist. 1978) ("By the terms of section 6-3(a) of the Criminal Code of 1961 (Ill. Rev. Stat. 1975, ch. 38, par. 6-3(a)) voluntary intoxication is an affirmative defense to a criminal charge if it negates the mental state required for the offense charged.").

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Defendant's reliance on *People v. Slabon*, 2018 IL App (1st) 150149, for the proposition that "a defendant's voluntary intoxication remains relevant to specific intent offenses," Def. Br. 19, 22-23, is unavailing for similar reasons. *Slabon* holds that voluntary intoxication is still relevant to negate the *mens rea* of specific intent, but what the *Slabon* court describes is indistinguishable from how courts described the affirmative defense of voluntary intoxication under section 6-3 prior to the 2002 amendment. *Slabon* describes voluntary intoxication as relevant where it "is so extreme as to suspend entirely the power of reasoning, [such that] a defendant is incapable of forming a specific intent or malice." 2018 IL App (1st 150149, ¶ 33. Notably, *Slabon* quotes *People v. Cunningham*, 123 Ill. App. 2d 190 (1st Dist. 1970), in describing how voluntary intoxication could operate to negate the People's evidence of specific intent, *see Slabon*, 2018 IL App (1st) 150149, ¶ 33, but the passage that it quotes from *Cunningham* was explaining the pre-2002 version of section 6-3's affirmative defense, *Cunningham*, 123 Ill. App. 2d at 209 ("Voluntary intoxication is an affirmative defense if it negatives the existence of a mental state which is an element of the offense." (citing Ill Rev Stat. (1963), ch. 38, par. 6-3(a)). In other words, *Cunningham*'s explanation of the law prior to the 2002 amendment is no longer accurate after the 2002 amendment to section 6-3, and *Slabon*'s reliance on *Cunningham* to construe the amended provision was therefore mistaken.

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Put differently, before 2002, both voluntary and involuntary intoxication could excuse a defendant's criminal responsibility if the defendant's intoxication was "so extreme as to suspend the power of reason and render him incapable of forming a specific intent which is an element of the offense" or "deprive[d] him of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law." 720 ILCS 5/6-3 (2000) (eff. 1988 to 2002). After the 2002 amendment, only *involuntary* intoxication could only excuse criminal responsibility. 720 ILCS 5/6-3. Nevertheless, defendant would read an exception into the current version of the statute that would revive involuntary intoxication with respect to specific intent crimes. That this Court cannot do. *See People v. Dupree*, 2018 IL 122307, ¶ 31 ("We may not depart from the plain language and meaning of a statute by reading into the statute exceptions, limitations, or conditions that the legislature did not express.").

III. Defendant Was Not So Intoxicated That He Was Incapable of Forming Specific Intent.

In any event, even under the pre-2002, voluntary intoxication standard, defendant's intoxication would not excuse criminal responsibility for his conduct, for viewed in the light most favorable to the People, the evidence showed that defendant was not so intoxicated as to be incapable of forming the intent to take Ong's car by use or threat of force. *See People v. Cochran*, 313 Ill. 508, 518 (1924) ("where intoxication is so extreme as to suspend entirely the power of reason and the accused is incapable of forming

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an intent, he cannot be held guilty of such crime"); *Bruen v. People*, 206 Ill. 417, 426-27 (1903) ("We have held that while drunkenness is no excuse for crime, either at common law or under the statute, yet, where it is necessary to prove a specific intent before a conviction can be had, it is competent to prove that the accused was at the time wholly incapable of forming such intent, whether from intoxication or otherwise."). Here, defendant walked to Ong's car under his own power. He clearly understood that the purpose of the rideshare was to take him home. He expressly articulated his desire to take control of Ong's car from Ong. That intent was motivated by defendant's belief — right or wrong — that Ong was not taking defendant in the right direction. When Ong refused to allow defendant to take control of his car from him, defendant grabbed Ong and threatened to kill him. And when Ong parked and fled the car, defendant attempted to use Ong's housekeys to take it.[4] These actions do not suggest that defendant's intoxication suspended his ability to reason such that he was unable to form specific intent.

Defendant argues that his unreasonable belief that he "should have been allowed to drive Ong's car" establishes that he was too intoxicated to know that his actions were unlawful. Def. Br. 30. But this defense rests on

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[4] It is irrelevant that it was impossible for defendant to take Ong's car using the housekeys because his misapprehension of the circumstances — his incorrect belief that he could start the car with the keys he had taken from the cupholder — is not a defense to a charge of attempt vehicular hijacking, any more than a defendant could plead impossibility in defense to attempt armed robbery on the ground that, unbeknownst to him, the victim he was attempting to rob had no money. 720 ILCS 5/8-4(b).

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the implicit assumption that a person would not intentionally do something criminal, which is, of course, demonstrably false. The fact that defendant was not entitled to take Ong's car does not mean that he was incapable of intending to take it illegally, any more than the fact that it is unlawful to rob someone renders robbery a nullity. The bare fact that defendant's conduct was unlawful does not establish that it must have been unintentional.

Accordingly, even if voluntary intoxication were not unambiguously incapable of relieving defendant of criminal responsibility under the plain language of section 6-3, defendant's drunkenness would not excuse his criminal conduct in this case.

CONCLUSION

This Court should affirm the appellate court's judgment.

July 5, 2023 Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 20 pages.

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PROOF OF FILING AND SERVICE

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct. On July 5, 2023, the foregoing **Brief of Plaintiff-Appellee People of the State of Illinois** was electronically filed with the Clerk, Illinois Supreme Court, and served upon the following by way this Court's Odyssey e-filing system:

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