2026 IL App (3d) 250392-U
No. 3-25-0392
Order filed November 23, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23 and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

ALEXIS V. GARBI, Defendant-Appellant.

Appeal from the Circuit Court of Grundy County.
Honorable Scott M. Belt, Judge, Presiding.
No. 20-CF-163

JUSTICE Anderson delivered the judgment of the court.
Justices Holdridge and Bertani concurred in the judgment.

ORDER

¶ 1 *Held*: The trial evidence was insufficient to prove beyond a reasonable doubt that Defendant was driving and streaming or watching video at the time of a fatal collision, requiring the reversal of Defendant's conviction for aggravated use of an electronic communication device.

¶ 2 Defendant was convicted of aggravated use of an electronic communication device (625 ILCS 5/12-610.2(b), (b-5), (e) (West 2020)) after the trier of fact determined that she was streaming or watching video while driving, which proximately caused a fatal traffic accident. On appeal, Defendant argues that the properly admitted evidence was insufficient to find her guilty beyond a reasonable doubt and that a statutory exception for hands-free electronic devices precluded her conviction. We reverse the conviction.

¶ 3 I. BACKGROUND

¶ 4 In August 2020, Defendant Alexis Garbi was indicted in Grundy County for aggravated use of an electronic communication device (625 ILCS 5/12-610.2(b), (b-5), (e) (West 2020)), a Class 4 felony, after a grand jury found that she was using an electronic communication device on June 2, 2020, when her truck collided with a car driven by Ellen R. Hackl, who was killed as a result of the collision. Three witnesses testified for the State at Defendant's bench trial in May 2023.

¶ 5 Christina Jones testified that she was driving east on Grand Ridge Road in Grundy County at about 4:20 p.m. on June 2. As she approached the intersection with Verona Road, she saw a white pickup truck approaching from the north on Verona Road. When the truck was about 150 feet from the intersection, Jones noted that it was "not slowing down," despite the presence of a stop sign on Verona Road. Jones noted that the day was sunny and that she saw no obstructions that would have impeded the view. Because she was concerned the truck would not stop, Jones slowed her own car. The truck drove through the intersection without stopping and hit the SUV driven by Hackl. Jones pulled to the side of the road and called 911 before approaching the SUV. Jones observed flames and smoke around the SUV as she unsuccessfully tried to remove the victim. She then went to check on Defendant, who was trying to get out of the white pickup truck. Finding that Defendant had no visible injuries, Jones returned to the victim's vehicle, and the police arrived at the scene.

¶ 6 Sergeant Jason Cory of the Grundy County Sheriff's Office testified that he had worked for the Grundy County Sheriff's Office for 19 years and had previously been employed in law enforcement for 23 years. On June 2, 2020, he was dispatched to a collision with injuries at the intersection of Grand Ridge Road and Verona Road, arriving at the scene in four to five minutes.

He noted that there were fields and stop signs at the northeast and southeast corners of the intersection, with no obstructions to the view. At the scene, Sergeant Cory checked on Defendant, who was sitting in her truck, before proceeding to the victim's SUV, which was on fire and filling with smoke. When he was unable to remove the victim from the car because her legs were pinned under the dashboard, he attempted to put the flames out with fire extinguishers. After the fire department arrived, the flames were extinguished, and the victim was removed from the SUV and sent to the hospital by helicopter.

¶ 7 While Defendant was being treated by medics, Sergeant Cory spoke to her, asking what had happened. Defendant stated that she was driving on Verona Road and stopped at the stop sign before entering the intersection, where the collision occurred. She also indicated that "she was on FaceTime with her mother" using Bluetooth on her iPhone, which was in a cup holder. On cross-examination, Cory stated that he also spoke to Defendant later at the hospital. During that conversation, Defendant restated that her phone was in a cup holder, not her hands, and that she was on FaceTime with her mother when the collision occurred. She admitted, however, that she did not fully stop at the stop sign before entering the intersection.

¶ 8 Detective Sergeant Paul Clampitt testified that he had been employed by the Grundy County Sheriff's Office for 29 years. He stated that, while not an expert, he was familiar with media and technical devices, including iPhones, and "[knew] how the things worked." After Defendant signed a consent to search electronic media, Sergeant Clampitt obtained her iPhone and unlocked it using the pass code he received from her boyfriend. During his inspection of the iPhone, he examined the call logs and took photographs of some of the entries from the day of the collision with another phone. Those photos were entered into evidence at trial. Exhibit 1A logged an incoming FaceTime call from "Mamma" that began at 4:10 p.m. and ended at 4:25 p.m., the

time of the collision. The log noted that the call used 43.4 megabytes of data. Exhibit 1B showed an outgoing 911 call at 4:26 p.m. that lasted one minute and indicated no data usage. Exhibits 1C and 1D depicted unanswered incoming calls from "Mamma" at 4:26 p.m. and 4:27 p.m. Finally, Exhibit 1E showed a two-minute incoming FaceTime call that began at 4:28 p.m. and used 5.2 megabytes of data. Defendant did not object to the reference to the 5.2 megabytes of data used, which was not accompanied by any testimony connecting that data usage to video streaming. Clampitt testified that he requested that a detective from the Channahon Police Department conduct a forensic analysis on the phone using Cellebrite, but he never obtained a Cellebrite report.

¶ 9 When asked to describe FaceTime, Clampitt explained that it was an Apple application that could be used to "communicate with video where you can see the person you're talking to and they can see you. It's similar to a Skype or Zoom call." When Clampitt attempted to explain that the 43.4 megabytes of data shown in Exhibit 1A caused him to conclude that Defendant was streaming video, defense counsel objected, successfully arguing that the State lacked a sufficient foundation to establish that connection. On cross-examination, Clampitt was asked whether he was familiar with FaceTime's voice-only function. He responded that he had never used it.

¶ 10 After the parties stipulated that the victim died as a result of the collision, Defendant moved for a directed finding, arguing that the exception for hands-free phone usage in section 12-610.2(d)(3) (625 ILCS 5/12-610.2(d)(3) (West 2020)) applied and that the State had failed to prove all the elements of the offense. The trial court denied the motion and took the case under advisement, issuing a written order on May 18, 2023. In that order, the trial court found Defendant guilty of aggravated use of an electronic communication device (*id*. § 12-610.2(b), (b-5), (e)), citing the reasoning in *People v. Delhaye*, 2021 IL App (2d) 190271, and *People v. Swift*, 2016 IL App (3d) 140604.

¶ 11 Defendant filed a posttrial motion asserting that the evidence was insufficient to show that she was streaming video at the time of the collision. The trial court denied the motion and later sentenced Defendant to three years in prison. She filed a timely notice of appeal.

¶ 12 II. ANALYSIS

¶ 13 Defendant raises three issues on appeal: whether (1) the State proved beyond a reasonable doubt that she was watching or streaming video at the time of the collision; (2) the statutory exception for hands-free devices precluded her conviction; and (3) the trial court erroneously considered Sergeant Clampitt's testimony about the significance of the data usage shown in the iPhone's call logs when he was not an expert and the court had upheld the defense's objection to that testimony. We agree with Defendant regarding the first issue and need not reach the others.

¶ 14 In reviewing the sufficiency of the evidence supporting a criminal conviction, we apply a deferential standard. We must view the trial evidence in the light most favorable to the State and determine whether any rational factfinder could have found that the essential elements of the offense were proven beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237, 261 (1985).

¶ 15 Defendant was convicted of aggravated use of an electronic communication device (625 ILCS 5/12-610.2(b), (b-5), (e) (West 2020)). At the time of the offense, section 12-610.2 stated, in relevant part:

> "(a) As used in this Section:
>
> 'Electronic communication device' means an electronic device, including, but not limited to, a hand-held wireless telephone, hand-held personal digital assistant, or a portable or mobile computer, but does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.

(b) A person may not operate a motor vehicle on a roadway while using an electronic communication device, including *using an electronic communication device to watch or stream video*.

(b-5) A person commits aggravated use of an electronic communication device when he or she violates subsection (b) and in committing the violation he or she is involved in a motor vehicle accident that results in great bodily harm, permanent disability, disfigurement, or death to another and the violation is a proximate cause of the injury or death." (Emphasis added.) *Id*. § 12-610.2(a), (b), (b-5).

Here, the key question is whether the evidence was sufficient to prove beyond a reasonable doubt that Defendant was watching or streaming video on her cell phone at the time of the collision.

¶ 16 The evidence shows that Defendant admitted to Sergeant Cory that she was on a FaceTime call with her mother at the time of the collision, and that admission was corroborated by the call logs found on her iPhone. Those logs showed that she received a FaceTime call from "Mamma" at 4:10 p.m. and that the call ended at 4:25 p.m., the time of the collision. Subsequently, the call logs revealed that Defendant called 911 at 4:26 p.m. and missed additional FaceTime calls from "Mamma." The call logs did not, however, reveal whether the FaceTime calls were video or audio-only.

¶ 17 Detective Sergeant Clampitt acknowledged that he is not an expert in the field of technology and simply had personal experience with video and cell phones. When asked, he testified that FaceTime is similar to Zoom or Skype and is used to communicate with others over video. In addition, he noted that the call logs on Defendant's phone reflected that the FaceTime calls used data while the voice calls, such as the 911 call, did not. The relevance of that distinction was never explained because the trial court found the officer's interpretation of the data usage (as

establishing Defendant was streaming video) to be inadmissible because it lacked sufficient foundation.

¶ 18 On cross-examination, defense counsel asked Clampitt about his familiarity with FaceTime's voice-only feature. When asked, "[a]re you just not aware of [the voice-only feature], or it's something you've never used," Clampitt responded, "It's something that I've never used."

¶ 19 To convict Defendant, the State was required to prove beyond a reasonable doubt that she was streaming or watching video at the time of the collision. The photos of the call logs and the admissible portion of Sergeant Clampitt's testimony were the only evidence presented to establish that element of the offense. The only testimony that attempted to connect the data associated with the FaceTime calls with the transmission of video was found to be inadmissible because Sergeant Clampitt was not an expert on media or technical devices and no Cellebrite report was ever obtained. While Clampitt noted that the FaceTime calls used data while the non-FaceTime calls did not, the potential connection between that distinction and the format of the FaceTime call was never explained. We conclude that the photos of the call logs alone do not sufficiently tell the tale of how those FaceTime calls were conducted in the absence of any testimony from a qualified witness connecting them to the use of audio-video rather than audio-only calling.

¶ 20 In other words, FaceTime is a platform that can make both audio-video *and* audio-only calls. See *Harris Trust & Savings Bank v. American National Bank & Trust Co. of Chicago*, 230 Ill. App. 3d 591, 597 (1992) ("A court may take judicial notice of matters of common knowledge, or of facts which, while not generally known, are easily verifiable"); see also *United States v. Kight, No. ACM 40337*, 2024 WL 1133548, at *3 n.3 (A.F. Ct. Crim. App. Mar. 14, 2024) ("FaceTime is an application for real-time video and voice calls over the Internet"). FaceTime calls transmit content over an internet data connection, consuming data as the call progresses rather than

relying solely on the cellular voice network. And while the amount of data Defendant used was recorded in her call log, the State failed to present reliable evidence demonstrating that the *amount* of data was likely attributable to an audio-video call rather than an audio-only call. The State could have easily presented evidence on this simple issue. Anyone with an iPhone might reasonably know that FaceTime can be used for audio calls; but, knowing whether a particular amount of data was likely used for audio-video calling, rather than audio-only, takes us beyond the bounds of what might be reasonably considered general knowledge.

¶ 21 The collision resulted in a tragic and unnecessary death. And it *may* be that Defendant was on a video call at the time of the accident, but the State failed to meet its burden of proving it beyond a reasonable doubt. Accordingly, we are compelled to reverse Defendant's conviction.

¶ 22 Because we hold that the trial evidence was insufficient to support Defendant's conviction, we need not address the parties' arguments addressing the statutory exception for hands-free devices and the trial court's alleged consideration of the inadmissible portion of Sergeant Clampitt's testimony.

¶ 23 III. CONCLUSION

¶ 24 For the reasons stated, we reverse the conviction entered by the circuit court of Grundy County in this case.

¶ 25 Reversed.