2021 IL App (2d) 200188
No. 2-20-0188
Opinion filed August 31, 2021

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Kane County.
Plaintiff-Appellee,	)	
v.	)	No. 18-CM-2781
MATTHEW WILLIGMAN,	)	Honorable Michael J. Noland,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court, with opinion.
Justices Zenoff and Jorgensen concurred in the judgment and opinion.

OPINION

¶ 1 Matthew Willigman, a principal at an elementary school and a mandated reporter, was charged with one count of failing to report child abuse pursuant to section 4 of the Abused and Neglected Child Reporting Act (Reporting Act) (325 ILCS 5/4 (West 2016)). Following a bench trial, Willigman was found guilty of this offense. Willigman appeals from this order. We reverse and remand for a new trial.

¶ 2 I. BACKGROUND

¶ 3 On October 26, 2018, Willigman was charged with the offense of failure to report child abuse (*id.*), a Class A misdemeanor. The complaint alleged that Willigman was the principal at O'Donnell Elementary School in Aurora and had reasonable cause to believe that one of the

students, I.M., was abused by a social worker at the school but that Willigman willfully failed to report the matter to the Department of Children and Family Services (DCFS). The complaint alleged that the failure to report occurred sometime between March 1 and April 20, 2018.

¶ 4 The State filed a pretrial motion *in limine* to exclude evidence that a DCFS investigation of a later report concerning I.M. and the social worker was determined to be unfounded. The State argued that the DCFS finding of unfounded did not mean that abuse did not occur, only that DCFS had no credible evidence of abuse or neglect. Further, the DCFS finding did not determine whether there were facts mandating a report to DCFS. In response, Willigman argued that the fact that the DCFS report was unfounded is relevant to whether Willigman had reasonable cause to suspect abuse. The trial court denied the motion *in limine*. The trial court stated that it would reconsider the issue at trial after it had time to consider case law and whether the evidence would be relevant.

¶ 5 At a bench trial, Darrell J. testified that he was I.M.'s stepfather. I.M. was 11 years old, and his mother was Jacqueline B. Darrell testified that, in 2017 and 2018, I.M. attended O'Donnell Elementary School. Willigman was the principal at the school. In March 2018, Darrell had a meeting at the school with Willigman, I.M., and Jacqueline. The purpose of the meeting was to discuss concerns that I.M. had with a social worker at the school. Darrell told Willigman that I.M. said that the social worker was pulling him out of class and that he was afraid of the social worker. There was no discussion as to why I.M. was afraid of the social worker. Willigman told everyone that I.M. would not have any further meetings with the social worker. Darrell testified that there was not another meeting with Willigman after that meeting.

¶ 6 Upon further questioning, Darrell testified that he subsequently learned that I.M. was still seeing the social worker. He also testified that there was in fact another meeting with Willigman. When asked whether the second meeting was prompted by an allegation that I.M. made against

the social worker, Darrell responded affirmatively. Darrell testified that the allegation, which he told Willigman about, was that the social worker would "touch [I.M.], hug him inappropriately, and give him toys." Darrell also told Willigman that the social worker was "touching [I.M.] inappropriately." Willigman asked I.M., who was 8 years old at the time, when the alleged inappropriate contact occurred. Darrell testified that Willigman's response and mannerisms gave him the impression that Willigman did not believe the accusation. Darrell believed that the second meeting took place sometime in March or April 2018.

¶ 7 Kristen Temple testified that she had been employed by DCFS for 10 years. She investigated allegations of abuse or neglect of children. In the summer of 2018, she investigated reported abuse of I.M. On June 5, 2018, as part of that investigation, she spoke to Willigman on the phone. Willigman told her that he was never told that a school social worker was touching I.M. inappropriately. Willigman also never called the DCFS hotline to report any abuse.

¶ 8 On cross-examination, Temple testified that, prior to talking to Willigman, she had spoken on the phone with Darrell and Jacqueline. She told them that her call was based on a report involving allegations that a school social worker may have abused I.M. Darrell told her that the reason they went to speak with Willigman was due to concerns with I.M. being pulled out of class by the social worker. Darrell told her that, after that meeting, I.M. told Darrell and Jacqueline that the social worker was touching him inappropriately. Darrell told Temple that he never told Willigman or the social worker about the allegation because he did not think the school would do anything about it.

¶ 9 Temple further testified that she was present in June 2018 for an interview at the child advocacy center in Geneva. Darrell and Jacqueline were also there. They told her that they had met with Willigman once in 2017 and once in 2018. In March 2018, they met with Willigman to

tell him that I.M. was uncomfortable with the social worker. After further discussion, Darrell told her that, at the March 2018 meeting, he told Willigman that the social worker was touching I.M. inappropriately. Darrell also said that he could not remember the specific words he used when speaking to Willigman. Darrell also reported telling Willigman that he "was not saying that the social worker was doing anything."

¶ 10 Temple also testified that in June 2018 she interviewed an outcry witness, who made a later report to DCFS regarding alleged abuse of I.M. The outcry was made to the witness on May 22, 2018. The outcry witness made a report to DCFS on May 30, 2018. When Temple was asked what the outcome of the investigation was in this case, the State objected. The trial court initially overruled the objection, stating that it would be cautious as to the weight it assigned to the DCFS report and its findings. Temple then explained the process of a DCFS investigation. After the investigation, DCFS decides the outcome of the investigation and there are two options: a finding of either unfounded or indicated. Temple was again asked what the DCFS finding was with regard to the May 2018 report. The State objected based on relevance. The trial court sustained the objection, stating that the actual DCFS finding was not relevant to Willigman's responsibility as a mandated reporter.

¶ 11 Investigator Chris Tunney of the Aurora Police Department testified that she was assigned to the child advocacy center. She investigated allegations of child abuse. In June 2018, she was assigned to investigate allegations of suspected abuse against I.M. As part of the investigation, she interviewed Willigman because Willigman was the principal at I.M.'s school and Willigman could have been a witness to the allegations. The interview was about 11 minutes and was audio-recorded. The recording was played in court. A transcript of the interview was admitted into evidence.

¶ 12 The following is the discussion that occurred in the interview, pursuant to the transcript of the recording. Willigman told Tunney that I.M.'s parents showed up at school about once a month to air grievances. Willigman asked Tunney if she was aware of I.M.'s family situation and background. Tunney said she was aware. Willigman stated that around spring break of 2018 Darrell and Jacqueline came to the school. They were complaining because, according to them, a police officer had come to school, pulled some students out of class, and interviewed them. In reality, an officer had come to the school during the winter and had walked around to a few of the classrooms and introduced himself.

¶ 13 According to the transcript, Darrell and Jacqueline then asked Willigman why the school social worker was seeing I.M. Willigman told them that the school social worker was not seeing I.M. They said that I.M. was in a "psychologist meeting" with the social worker and the social worker asked I.M. to touch him. Willigman said to Tunney that, when Darrell and Jacqueline said this, "*** I'm like whoa. I'm like wait a second, where's this all coming from?" Willigman told Darrell and Jacqueline that there was no psychologist and asked when the alleged meeting took place. They told him that I.M. did not remember, that he could not remember what he ate for breakfast. Willigman said that he asked where it took place, whether I.M. told his parents or any staff members, and whether anyone else saw it. There was yelling and Willigman finally asked what they wanted. They said that they did not want I.M. to see the social worker anymore. Willigman said that was not a problem, because the social worker did not see I.M. anyway.

¶ 14 Willigman then told Tunney that Darrell and Jacqueline indicated that they had contacted DCFS or a psychologist or counselor. Willigman thought, at the time, that if they were telling the truth, he would get a call from DCFS. Willigman said that he was a parent and if his kid said something about inappropriate touching, he would be at the police station "in a heartbeat."

Willigman also told Tunney that lying was "[Darrell and Jacqueline's] usual M.O." Willigman stated that he found it astonishing that when Darrell and Jacqueline showed up, the allegation of abuse was not the first thing on their list to talk about. Willigman told Tunney that, after the meeting with Darrell and Jacqueline, he went to talk to the social worker. The social worker said that he had seen I.M. only three times that year and it was always in a group setting. Willigman said that he did not do anything about the allegations because he did not have anything to go on and he did not want to start "throwing the [social worker's] name around."

¶ 15 Tunney told Willigman that I.M.'s teacher thought that I.M. was seeing the social worker in a group setting about every other week. Willigman said that it must have been a long time ago and would not have gone on too long. Tunney mentioned that Darrell and Jacqueline were still talking about it in March. Willigman responded that Darrell and Jacqueline had a vendetta against the social worker. Willigman believed that it was around Halloween in 2017 when they first told him that they did not want I.M. to see the social worker anymore. Tunney asked if there was any documentation of him letting the social worker know that he was not to see I.M. anymore. Willigman said that any communication would have been electronic.

¶ 16 Tunney asked Willigman why he did not put the social worker on administrative leave after the allegations. Willigman said that Darrell and Jacqueline were always coming in making up wild stories. Willigman thought that, if the allegations were true, someone would have called DCFS already. Since he had not heard from DCFS, he assumed that the allegations were not true. At the end of May 2018, Willigman received a call from a hospital. I.M. was hospitalized and was supposed to be doing partial days at school. When I.M. was not showing up for partial days, Willigman called the hospital and learned that I.M. had been dismissed. However, I.M. was still

not showing up to school. A day later, one of the clinicians from the hospital called the school and told them about the allegations of abuse, and DCFS called the school the next day.

¶ 17 After Tunney' testimony, the State rested and defense counsel moved for a directed finding. The trial court denied the motion. The trial court noted that, viewing the evidence in the light most favorable to the State, the evidence showed that Willigman received a report of some sort of touching between I.M. and the social worker. The trial court stated that, although Darrell could not recall certain dates, it found Darrell's testimony to be credible. The trial court noted the inconsistency in the testimony about the number of meetings between Darrell and Willigman, with Darrell saying that there were two meetings and Willigman indicating that Darrell had stopped by for multiple impromptu meetings. The trial court stated that Willigman may wish to develop that in terms of presenting evidence as to what Willigman considered in determining whether or not to call DCFS. The trial court also noted that this court, in *Doe v. Dimovski*, 336 Ill. App. 3d 292 (2003), indicated that a mandated reporter did not have discretion in determining whether to call DCFS. Thereafter, the defense rested.

¶ 18 During closing arguments, the trial court asked the parties about *Dimovski*. The trial court noted that, in *Dimovski*, this court stated that "once school personnel suspect or should suspect that a child may be sexually abused, they are divested of any discretion to determine what constitutes 'reasonable cause to believe' or whether such abuse actually occurred." *Id.* at 297. The trial court questioned whether this instituted a strict liability standard with respect to the statute. Willigman argued that *Dimovski* was distinguishable and did not institute a strict liability standard. Rather, *Dimovski* stood for the proposition that a mandated reporter must receive a credible report of suspected child abuse. Willigman argued that inappropriate touching did not automatically mean

sexual abuse and that this was an issue for the trier of fact. Willigman argued that Darrell was not credible and had given various stories about what was said and when.

¶ 19 On December 10, 2019, the trial court rendered its ruling. The trial court noted that Darrell's testimony was difficult to discern and that it was difficult to determine what was said to Willigman and when. The trial court stated that it found *Dimovski* dispositive. The trial court found that the trend in the case law was "clearly towards a more strict liability standard," but it noted that there was no case law to support this standard. The trial court found "reasonable cause to believe" to be a "nebulous term" because it allowed "somebody in [Willigman's] position to believe that they have a credible report of suspected child abuse and that this must be turned over to DCFS." However, the trial court found that what is "suspect" and what is "credible" can be a matter of opinion and that the legislature had a duty to clarify the standard.

¶ 20 The trial court stated that it reviewed the testimony and that, although there was some "allusion to a touching," the term "inappropriate" was not really used by Darrell. The trial court also stated that, in the interview between Willigman and Tunney, Willigman acknowledged that there was a conversation with Darrell where "a touching of some sort was discussed." Willigman indicated in that interview that such allegations would have made him, as a parent, go to the police station. The trial court acknowledged that Willigman may have believed that DCFS was already contacted and may have wanted more information before reporting a colleague, but it noted that the statute did not allow for that.

¶ 21 The trial court noted that, in *Dimovski*, this court stated that school personnel did not have the discretion to determine what constitutes "reasonable cause to believe" or whether abuse actually occurred, because, if they did, the goal of protecting children from sexual abuse would be undermined. Finally, the trial court found:

> "THE COURT: *** And there has to be a certain absolution for administration and for teachers, okay, when they hear there may have been an inappropriate touching. It's understandable to question whether that touching was simply a bump or it was a teacher, as teachers often do, encourage children by putting a [*sic*] arm around a shoulder and doing so in a very benign and caring way, I will say, all right, which should not raise alarm.
>
> So the fact that [Willigman] is asking, you know, what kind of touching this was, is understandable, but nonetheless, it did not relieve him of the duty to report. And so, with that, I do have to enter a finding of guilty."

¶ 22 Willigman filed a posttrial motion for judgment notwithstanding the verdict or a new trial, arguing that he was not proved guilty beyond a reasonable doubt. On January 28, 2020, following a hearing, the trial court denied Willigman's posttrial motion. There is no transcript of the hearing, but in bystanders' reports, both parties state that the trial court admitted that it had difficulty interpreting the statute and thus reasoned that it should err on the side of caution and impose a "strict liability standard" because of the policy behind the statute. Thereafter, the trial court sentenced Willigman to one month of court supervision. Willigman filed a timely notice of appeal.

¶ 23 II. ANALYSIS

¶ 24 At the outset, the State notes that there is a potential issue as to mootness because Willigman has already completed his period of supervision. However, as the finding of guilt can have collateral consequences even though Willigman successfully completed his supervision, this appeal is not moot. *People v. Sheehan*, 168 Ill. 2d 298, 308 (1995).

¶ 25 Willigman's first contention on appeal is that the trial court erred in finding that the failure to report child abuse was a strict liability offense, *i.e.*, that no criminal state of mind was required. Willigman argues that the statute clearly requires a culpable mental state. Specifically, the statute

requires a "willful" failure to report (325 ILCS 5/4.02 (West 2016)). Further, he argues that the duty to report is not triggered merely by an allegation of child abuse but instead by circumstances causing one to "hav[e] reasonable cause to believe" that a child "may be an abused child." See *id.* § 4.

¶ 26 The State argues that the trial court did not consider this to be a strict liability offense. The State notes that the trial court found only that the law was "trending" in that direction. The State asserts that the trial court considered the statute and the evidence and that it properly found Willigman guilty of the charged offense.

¶ 27 The record shows that the trial court did treat the failure to report as a strict liability offense. Despite the State's argument on appeal, both parties noted in the bystanders' reports of the hearing on Willigman's posttrial motion that the trial court admitted that it had difficulty interpreting the statute and that it would impose a strict liability standard because of the policy behind the statute. The record indicates that the trial court believed that any allegation of "inappropriate touching" would require a mandated reporter to make an immediate call to DCFS. The trial court stated that Willigman did not have the discretion to determine whether the inappropriate touching was merely a bump or an arm around the shoulder. We disagree with this interpretation of the statute.

¶ 28 Section 4 of the Reporting Act states that a mandated reporter "having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to [DCFS]." *Id.* When we construe a statute, our goal is always to determine and give effect to the legislature's intent in enacting the statute. *People v. Lewis*, 223 Ill. 2d 393, 402 (2006). We begin with the plain language of the statute because ordinarily that is the best indicator of the legislature's intent. *Id.* "When statutory language is plain and unambiguous, we must apply the statute as written without resort

to aids of statutory construction." *Id.* (citing *People v. Collins*, 214 Ill. 2d 206, 214 (2005)). We will not depart from the plain language of a statute by reading into it exceptions, limitations, or conditions not expressed by the legislature. *Id.*

¶ 29 The issue here is the meaning of the term "reasonable cause to believe." The term "reasonable" implies that some exercise of judgment should occur. *Doe I v. Board of Education of Consolidated School District 230 Cook County*, 18 F. Supp. 2d 954, 962 (N.D. Ill. 1998). If no exercise of judgment were required, the legislature could have used the term "any cause to believe." Further, the issue of whether a mandated reporter has reasonable cause to report suspected abuse is determined by the "objective belief of a reasonable person, not the school personnel's subjective belief." *Dimovski*, 336 Ill. App. 3d at 297. Generally, what is reasonable depends on the particular facts and circumstances in each case. *People v. Harvey*, 27 Ill. 2d 282, 285 (1963); *People v. Fant*, 66 Ill. App. 3d 991, 993 (1978). Accordingly, the plain language of the statute does not support the trial court's determination that any and all allegations of abuse mandate a report to DCFS.

¶ 30 The trial court's error seems to be based on a misinterpretation of this court's decision in *Dimovski*. *Dimovski* was a civil case addressing whether a school district could avoid civil liability under the Local Governmental and Governmental Employees Tort Immunity Act (Tort Immunity Act) (745 ILCS 10/2-201 (West 2000)) for claims involving negligent hiring and negligent supervision, not a criminal case brought under the Reporting Act. In *Dimovski*, the plaintiff, Jane Doe, filed a complaint against a school board (Board) based on allegations that she was sexually abused by a teacher. *Dimovski*, 336 Ill. App. 3d at 294. One of the allegations was that two of the Board's employees had knowledge that the teacher at issue had previously engaged in sexual harassment and abuse of another student. *Id.* The plaintiff alleged that the Board was negligent in

failing to notify DCFS of the previous complaints of inappropriate sexual behavior involving the teacher. *Id.* at 295. The Board filed a motion to dismiss arguing, in part, that it was entitled to immunity under section 2-201 of the Tort Immunity Act, and the trial court granted the motion. *Id.*

¶ 31 On appeal, this court held that the trial court erred in finding that section 2-201 of the Tort Immunity Act applied. *Id.* at 297. This court noted that section 2-201 gives governmental entities immunity from liability for injuries resulting from " 'the determination of policy or the exercise of discretion.' " *Id.* at 296 (quoting 745 ILCS 10/2-201 (West 2000)). This court noted the mandatory language in the Reporting Act "that school personnel 'having reasonable cause to believe' a child known to them in their professional or official capacity may be an abused child 'shall immediately report or cause a report to be made to [DCFS].' " *Id.* (quoting 325 ILCS 5/4 (West 2000)). This court found that the mandatory language divested the Board of the exercise of discretion and the determination of policy with respect to deciding whether to report the previous abuse to DCFS and, therefore, that section 2-201 did not immunize the Board from liability. *Id.* at 297.

¶ 32 In so ruling, this court stated:

> "We disagree with the notion that school personnel are vested with the discretion to determine what constitutes 'reasonable cause to believe' or whether such abuse actually occurred. The term 'reasonable cause to believe' as used in the Reporting Act is equivalent to the term 'suspect' as used in the Code of Federal Regulations (45 C.F.R. § 1340.3-3(d)(2) (1977)). 1977 Ill. Att'y Gen. Op. 173. The Reporting Act requires that a credible report of suspected child abuse must be turned over to DCFS. DCFS is assigned the authority, or the discretion, to substantiate the accuracy of all reports of known or suspected child abuse or neglect. 325 ILCS 5/7.3 (West 2000). Thus, once school personnel suspect or should suspect that a child may be sexually abused, they are divested of any discretion

> to determine what constitutes 'reasonable cause to believe' or whether such abuse actually occurred. If school personnel were allowed to determine whether reasonable cause existed or whether such abuse actually occurred before reporting the matter to DCFS, the goal of protecting children from sexual abuse would be undermined. Although the school board may initially investigate the credibility of any rumors of sexual abuse, whether there was reasonable cause to report the allegations is an objective determination." *Id.*

¶ 33 This court went on to explain that, once the previous female student and her mother notified the Board employees that the teacher had sexually exploited the student, the Board employees had no choice but to make a report to DCFS. *Id.* Significantly, this court noted that "the Board does not allege any facts that would have rendered the allegations incredible at the time they were made." *Id.* This court contrasted this with *Doe I*, 18 F. Supp. 2d at 958, noting that there, the rumors of sexual abuse were consistently and unequivocally denied by the victims themselves, so there was no reason to suspect sexual misconduct. *Dimovski*, 336 Ill. App. 3d at 297.

¶ 34 In the present case, the trial court interpreted this court's decision in *Dimovski* to stand for the proposition that any report, even a doubtful rumor of potential abuse, must immediately be reported to DCFS without question. This interpretation is improper. *Dimovski* stands for the proposition that, once school staff receive a credible report of abuse or suspected abuse, they have no discretion not to inform DCFS. However, Dimovski does not hold that school staff are stripped of the ability to determine whether a reasonable person would find the report credible. In *Dimovski*, the victim and her mother detailed a course of inappropriate sexual harassment and sexual advances. *Id.* at 294. The information provided was not ambiguous as to whether there was potential abuse. Given those facts, there was reasonable cause to suspect that abuse had occurred, and the mandated reporters were required to report the abuse to DCFS.

¶ 35 Accordingly, the trial court erred in concluding that, under *Dimovski*, school personnel have no discretion at any time and that every allegation of abuse must be reported. " '[R]easonable cause to believe' " requires something more than a mere utterance containing an allegation of abuse. *Cooney v. Department of Mental Retardation*, 754 N.E.2d 92, 98 (Mass. App. Ct. 2001). Rather, a mandated reporter "must first determine what constitutes 'suspect sexual abuse' within the meaning of the reporting act, and whether such abuse likely occurred. Reaching such a conclusion clearly entails the exercise of a degree of judgment and discretion." *Doe I*, 18 F. Supp. 2d at 962. As such, under *Dimovski*, a mandated reporter must use his or her discretion to determine whether a report of abuse is credible. Factors that may be relevant include who is making the allegations, how recent any alleged abuse occurred, and whether details of the events reveal abusive conduct and support the credibility of the accusations.

¶ 36 The public policy concern in protecting the health and welfare of children is of profound importance. However, were we to agree with the trial court's interpretation, mandated reporters would feel compelled to report allegations that should not be reported and thereby divert valuable resources from allegations that need immediate attention. Other courts have held that mandated reporters have the discretion to determine whether a report is warranted and explained that such discretion should be "limited to ensuring that something more than a mere allegation of abuse exists, to rule out 'assertions that are impossible, utterly fantastic, plainly fabricated, or made only in jest.' " *Doe v. Bradshaw*, 203 F. Supp. 3d 168, 179-80 (D. Mass. 2016) (quoting *Cooney*, 754 N.E.2d at 98).

¶ 37 We note that the DCFS manual for mandated reporters also supports our conclusion that a mandated reporter must exercise some judgment to determine whether a report to DCFS is required. In the manual, DCFS states:

> "In considering whether there is 'reasonable cause' to make a report, there are some issues that are important for mandated reporters to consider in deciding whether to report an incident as suspected abuse or neglect. While it is not the function of the mandated reporter to investigate, enough information must be obtained to determine if a Hotline call is needed." Ill. Dep't of Children & Family Services, *Manual for Mandated Reporters* 18 (Sept. 2020 rev. ed.), https://www2.illinois.gov/dcfs/safekids/reporting/Documents/cfs_1050-21_ mandated_reporter_manual.pdf [https://perma.cc/MDM2-9E76].

The manual further states that a mandated reporter should consider the communication provided by the victim, whether the information was plausible and consistent with the mandated reporter's own observations, the extent to which information provided by someone other than the victim is credible and complete, and whether there were previous suspicious incidents. *Id.* at 19.

¶ 38 In summary, the trial court's determination was based on a misinterpretation of the statute and *Dimovski*. Under the circumstances, the appropriate disposition of the case is to remand for a new trial in which the trial court can apply the proper interpretation of the statute and *Dimovski*. See *In re Urbasek*, 38 Ill. 2d 535, 543-44 (1967) (where trial court measured the evidence by the wrong standard of proof, the case was remanded for a new trial in which the correct standard would be applied); *Tankersley v. Peabody Coal Co.*, 31 Ill. 2d 496, 504 (1964) (when the trial court decides a case on the basis of a misapprehension of the law, a reviewing court should remand the case for retrial).

¶ 39 Our reversal of Willigman's conviction raises the double jeopardy issue. The double jeopardy clause of the United States Constitution (U.S. Const., amend. V) prohibits the State from having another opportunity to try a case unless it has presented in the first trial sufficient evidence to prove the defendant guilty beyond a reasonable doubt. *People v. Johnson*, 2013 IL App (2d)

110535, ¶ 84. Thus, before remanding for a new trial, double jeopardy requires this court to rule upon the sufficiency of the evidence. *People v. Taylor*, 76 Ill. 2d 289, 309 (1979); *Johnson*, 2013 IL App (2d) 110535, ¶ 84. We must determine whether, after considering all of 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. *People v. Collins*, 106 Ill. 2d 237, 261 (1985).

¶ 40 Here, looking at the evidence in the light most favorable to the prosecution, we conclude that it was sufficient to convict Willigman beyond a reasonable doubt. The Reporting Act provides that school personnel "having reasonable cause to believe a child known to them in their professional *** capacity may be an abused child *** shall immediately report or cause a report to be made to the [DCFS]." 325 ILCS 5/4 (West 2016). The parties do not dispute that Willigman was a mandated reporter, that he knew I.M. in his professional capacity, and that he did not make a report to DCFS. The only issue in this case is whether the evidence established that, in March or April 2018, Willigman had reasonable cause to believe that I.M. may be an abused child.

¶ 41 The testimony of Darrell and Temple indicated that Darrell made a statement to Willigman that the social worker was touching I.M. inappropriately. The evidence corroborated that this conversation took place in March 2018. When Willigman described the conversation to Tunney, Willigman stated "whoa" and said that, if he received such information from his own child, he would have been at the police station "in a heartbeat." Further, the statement was not immediately dismissed as unbelievable, because Willigman stated that he went to ask the social worker about the allegation. Willigman also told Tunney that, if the allegation were true, he assumed that it would have been reported to DCFS already. As such, a rational trier of fact could have found the essential elements of the charged offense. We therefore conclude that there is no double jeopardy impediment to retrial. See *People v. Olivera*, 164 Ill. 2d 382, 393 (1995)

("Although the double jeopardy clause precludes the State from retrying a defendant after a reviewing court has determined that the evidence introduced at trial was legally insufficient to convict, the double jeopardy clause does not preclude retrial of a defendant whose conviction has been set aside because of an error in the proceedings leading to the conviction.").

¶ 42 Finally, Willigman argues that the trial court erred in not considering that DCFS, investigating a later report involving I.M. and the social worker, determined that the underlying claim of abuse was "unfounded." Willigman argues that the DCFS determination was relevant as to whether he had reasonable cause to believe that I.M. may be abused. We will address this issue, as it may arise again on remand.

¶ 43 Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Ill. R. Evid. 401 (eff. Jan. 1, 2011). Evidence is relevant if its purpose is to provide context for other evidence. *People v. Hanson*, 238 Ill. 2d 74, 101 (2010). Irrelevant evidence is inadmissible. Ill. R. Evid. 402 (eff. Jan. 1, 2011). A trial court's decision regarding the admissibility of evidence is within its sound discretion and will not be disturbed on appeal absent an abuse of discretion. *People v. Becker*, 239 Ill. 2d 215, 234 (2010). An abuse of discretion occurs when the trial court's ruling is arbitrary, fanciful, or unreasonable or where no reasonable person would agree with the position adopted by the trial court. *Id.* (citing *People v. Illgen*, 145 Ill. 2d 353, 364 (1991)).

¶ 44 In the present case, we cannot say that the trial court erred in not allowing evidence as to whether the DCFS investigation of a later report involving I.M. and the social worker was ultimately determined to be unfounded or indicated. The later report and the outcome of the DCFS

investigation was not relevant as to whether, in March 2018, Willigman had reasonable cause to believe that I.M. might be an abused child.

¶ 45 III. CONCLUSION

¶ 46 For the foregoing reasons, the judgment of the circuit court of Kane County is reversed and the cause is remanded for a new trial consistent with this opinion.

¶ 47 Reversed and remanded.

No. 2-20-0188

Cite as:	*People v. Willigman*, 2021 IL App (2d) 200188
Decision Under Review:	Appeal from the Circuit Court of Kane County, No. 18-CM-2781; the Hon. Michael Noland, Judge, presiding.
Attorneys for Appellant:	Amanda J. Hamilton, of Konicek & Dillon, P.C., of Geneva, for appellant.
Attorneys for Appellee:	Jamie L. Mosser, State's Attorney, of St. Charles (Patrick Delfino, Edward R. Psenicka, and Diane L. Campbell, of State's Attorneys Appellate Prosecutor's Office, of counsel), for the People.