FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D19-3472

KENNETH CAUSEY,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Bay County.
Christopher N. Patterson, Judge.

August 31, 2020

PER CURIAM.

Kenneth Causey appeals his convictions for driving with a suspended license and possession of marijuana over 20 grams. We affirm his conviction for possession of marijuana without further discussion. We reverse, however, his conviction for driving with a suspended license, finding error in the trial court's denial of his motion for judgment of acquittal because the State failed to prove that Causey knew about the license suspension.

To prove the crime of driving with a suspended license under section 322.34(2), Florida Statutes (2017), the State must establish three elements: "(1) the defendant's driver's license was suspended at the relevant time, (2) the defendant's knowledge of the license suspension, and (3) the defendant was actually driving."

Stringfield v. State, 254 So. 3d 1127, 1128 (Fla. 5th DCA 2018). As for the knowledge requirement, the statute provides:

> The element of knowledge is satisfied if the person has been previously cited as provided in subsection (1); or the person admits to knowledge of the cancellation, suspension, or revocation; or the person received notice as provided in subsection (4). There shall be a rebuttable presumption that the knowledge requirement is satisfied if a judgment or order as provided in subsection (4) appears in the department's records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.

§ 322.34(2)(c), Fla. Stat.

Here, the only evidence presented by the State in its case-in-chief to prove the knowledge element of the crime was video of the arrest and testimony from the arresting officers of their knowledge of the license suspension. Yet nothing shows that Causey possessed the requisite knowledge of his license suspension. The State did not enter a certified copy of Causey's driving record into evidence, nor did it present any proof that he was on notice that his license was suspended. Because the State failed to present competent, substantial evidence that Causey knowingly drove with a suspended license, it was error for the trial court to deny his motion for judgment of acquittal made at the close of the State's case.

In reaching this decision, we have not overlooked the State's argument that Causey admitted on the stand that he knew his license was suspended. That this missing-link evidence was introduced by Causey when testifying in his own defense does not cure the State's failure to prove an essential element of the charged offense. *See Morris v. State*, 721 So. 2d 725, 727 (Fla. 1998) ("[E]ven if the missing element is supplied during the defendant's presentation, the conviction will still be reversed where the state failed to make a prima facie case at the close of the State's evidence."); *see also* Fla. R. Crim. P. 3.380(b).

AFFIRMED in part, REVERSED in part, and REMANDED.

RAY, C.J., and JAY and LONG, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Andy Thomas, Public Defender, and Kathleen Pafford, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Damaris E. Reynolds, Assistant Attorney General, Tallahassee, for Appellee.