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DRANGINIS, J., dissenting. I respectfully dissent from the majority opinion, primarily because the majority has decided the question of the defendant's intent, which our law has determined is a question of fact for the jury to decide.

The defendant, Madalena Silva, was charged in a four count amended information with two counts of interfering with an officer, a misdemeanor, and two counts of breach of the peace in the second degree.[1] Count one alleged that the defendant "did interfere with a Bridgeport police officer, to wit: by saying to Officer Jason Ferri when requested to produce license, registration and insurance information during a motor vehicle stop, 'Fuck you, I ain't giving you shit, asshole,' *and* did obstruct, resist or hinder said Bridgeport police officer in the performance of his duties, in violation of [General Statutes §] 53a-167a (a) . . . ." (Emphasis added.)[2] Count two alleged that the defendant "did interfere with a Bridgeport police officer, to wit: by running from Officer Jason Ferri and fleeing on foot across North Avenue and entering the driver's side of an unidentified green vehicle which left the scene at a high rate of speed, after being instructed by Officer Jason Ferri not to leave the scene, and did obstruct, resist or hinder said Bridgeport police officer in the performance of his duties, in violation of [§] 53a-167a (a) . . . ." Following a trial, a jury found the defendant guilty of both counts of interfering with an officer. The court sentenced the defendant to one year in the custody of the commissioner of correction, execution suspended, and two years of probation on both counts, to be served concurrently.

On appeal, the defendant claims that (1) as a matter of law, she is not guilty of the charges of which she was convicted and (2) the court improperly charged the jury on consciousness of guilt. I would affirm the judgment of the trial court.

I

The defendant's first claim is that there was insufficient evidence by which the jury could have found her guilty of violating § 53a-167a (a). As to the allegations of count one, the defendant claims that the evidence was insufficient because it is not enough that her conduct was intended to hamper the performance of a police officer's duties, the conduct actually must hamper the police officer in the performance of his or her duties. As to the allegations of count two, the defendant claims that (1) there was no evidence presented, nor was there any allegation made, that the defendant had a duty to remain at the scene, and (2) the evidence demonstrated that she left the scene for the purpose

of taking her brother to a hospital. The defendant claims that the state failed to prove intent to interfere with respect to count two. Because intent is a question to be determined by the trier of fact, I respectfully disagree with the defendant's claims and the majority's analysis of them.

The appellate courts of this state have often set out the standard of review with respect to claims of insufficient evidence. ''First, we construe the evidence in the light most favorable to sustaining the verdict. Second, we determine whether upon the facts so construed and the inferences reasonably drawn therefrom the [finder of fact] reasonably could have concluded that the cumulative force of the evidence established guilt beyond a reasonable doubt. . . .

''[T]he inquiry into whether the record evidence would support a finding of guilt beyond a reasonable doubt does not require a court to ask itself whether it believes that the evidence . . . established guilt beyond a reasonable doubt. . . . Instead, the relevant question is whether, after viewing 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.'' (Internal quotation marks omitted.) *State* v. *Mulero*, 91 Conn. App. 509, 512–13, 881 A.2d 1039 (2005).

Section 53a-167a (a) provides in relevant part: ''A person is guilty of interfering with an officer when such person obstructs, resists, hinders . . . any peace officer . . . in the performance of such peace officer's . . . duties.'' ''This court has stated that . . . § 53a-167a . . . defines interfering to *include* obstruction, resistance, hindrance or endangerment. . . . By using those words it is apparent that the legislature intended to prohibit *any* act which would amount to meddling in or hampering the activities of the police in the performance of their duties. . . . In enacting § 53a-167a, the legislature sought to prohibit behavior that hampers the activities of the police in the performance of their duties. . . . The statute's purpose is to ensure orderly compliance with the police during the performance of their duties; any act intended to thwart this purpose violates the statute.'' (Citation omitted; emphasis in original; internal quotation marks omitted.) *State* v. *Hampton*, 66 Conn. App. 357, 375, 784 A.2d 444, cert. denied, 259 Conn. 901, 789 A.2d 992 (2001). ''To hinder is defined as to make slow or difficult the course or progress of.'' (Internal quotation marks omitted.) *State* v. *Biller*, 5 Conn. App. 616, 621, 501 A. 2d 1218 (1985), cert. denied, 199 Conn. 803, 506 A.2d 146, cert. denied, 478 U.S. 1005, 106 S. Ct. 3296, 92 L. Ed. 2d 711 (1986).

''Intent is generally proven by circumstantial evidence because direct evidence of the accused's state of mind is rarely available. . . . Therefore, intent is often inferred from conduct . . . and from the cumula-

tive effect of the circumstantial evidence and the rational inference drawn therefrom.'' (Internal quotation marks omitted.) *State* v. *Hampton*, supra, 66 Conn. App. 376 (defendant disobeyed officer's command to get down from window, avoided capture by escaping through another window and fled from officers). It is the role of the jury to accept or reject the credibility of a witness' testimony, disputed or not. See *State* v. *Nixon*, 92 Conn. App. 586, 600, 886 A.2d 475 (2005).

In this case, the officers stopped the defendant in relation to the manner in which she operated a motor vehicle and the fact that the vehicle did not bear the required front license plate. ''[T]he General Assembly has enacted legislation in the motor vehicle context that requires a motor vehicle operator to provide his or her identification to a police officer on demand. General Statutes § 14-217 expressly provides a stop and identify requirement for motorists.'' (Internal quotation marks omitted.) *State* v. *Aloi*, 86 Conn. App. 363, 370, 861 A.2d 1180 (2004), cert. granted on other grounds, 273 Conn. 901, 867 A.2d 840 (2005). At the scene, the defendant failed to provide the officers with her operator's license, registration and insurance card. Because § 14-217 requires a motorist to produce her identification on demand at the request of an officer, the jury reasonably could have concluded that the defendant hindered the officers' investigation by failing to provide the requested information at the scene.[3] Furthermore, the officers instructed the defendant not to leave while they were conducting their investigation. Nonetheless, the defendant left and the officers were required to follow her to a hospital. A jury reasonably could have found that the defendant's behavior in failing to provide identification to the officers at the scene and leaving the scene when instructed not to leave hindered the officers' performance of their duties under the motor vehicle laws of this state.[4]

At footnote 6, the majority construes the defendant's conduct as one continuous offense. I disagree. While the offenses have temporal and spatial proximity, they were distinct acts of hampering the police officers from performing their duties. See *State* v. *Browne*, 84 Conn. App. 351, 379, 854 A.2d 13, cert. denied, 271 Conn. 931, 859 A.2d 930 (2004) (same transaction may constitute separate and distinct crimes where it is susceptible of separation into parts, each of which constitutes completed offense). The defendant did not raise the issue in her brief. See *State* v. *Rosario*, 81 Conn. App. 621, 640, 841 A.2d 254 (Supreme Court does not approve of this court's deciding issues that were not raised by parties) (*Schaller, J.*, concurring), cert. denied, 268 Conn. 923, 848 A.2d 473 (2004); see also *Lynch* v. *Granby Holdings, Inc.*, 230 Conn. 95, 98–99, 644 A.2d 325 (1994). The majority implies that because the defendant may have been found guilty of having violated § 14-217, her behavior in that regard could not also be

found to be a violation of § 53a-167a. I disagree because the elements of the offenses are different. See, e.g., *State* v. *Ellision*, 79 Conn. App. 591, 600–601, 830 A.2d 812, cert. denied, 267 Conn. 901, 838 A.2d 211 (2003) (elements necessary for conviction of risk of injury to or impairing morals of child different from elements necessary for conviction of sexual assault in second degree).

II

Because I would affirm the judgment of the court with respect to the defendant's claim of insufficient evidence, I will address the defendant's claim that the court improperly charged the jury with regard to consciousness of guilt. The defendant claims that the court improperly gave a consciousness of guilt instruction to the jury because there was an innocent explanation for her leaving the scene, namely, to take her brother to a hospital. Again, the question of the defendant's intent in leaving the scene when instructed by a police officer not to leave is a question for the jury to determine. I, therefore, conclude that the court properly charged the jury.

There was evidence that the officers ordered the defendant to remain at the scene, but she fled in a motor vehicle. When the officers arrived at the emergency room, the defendant told a friend that the police were coming to get her. On the basis of this evidence, the state requested that the court charge the jury on consciousness of guilt.

"When reviewing [a] challenged jury instruction . . . we must adhere to the well settled rule that a charge to the jury is to be considered in its entirety, read as a whole, and judged by its total effect rather than by its individual component parts. . . . [T]he test of a court's charge is not whether it is as accurate upon legal principles as the opinions of a court of last resort but whether it fairly presents the case to the jury in such a way that injustice is not done to either party under the established rules of law. . . . As long as [the instructions] are correct in law, adapted to the issues and sufficient for the guidance of the jury . . . we will not view the instructions as improper." (Internal quotation marks omitted.) *Jacobs* v. *General Electric Co.*, 275 Conn. 395, 400, 880 A.2d 151 (2005). To prevail on her claim that the court improperly charged the jury on flight, the defendant must prove that the court abused its discretion. See *State* v. *Hines*, 243 Conn. 796, 816, 709 A.2d 522 (1998).

"[F]light, when unexplained, tends to prove a consciousness of guilt. . . . Flight is a form of circumstantial evidence. . . . The fact that the evidence might support an innocent explanation as well as an inference of a consciousness of guilt does not make an instruction on flight erroneous." (Internal quotation marks omit-

ted.) *State* v. *Feliciano*, 74 Conn. App. 391, 400, 812 A.2d 141 (2002), cert. denied, 262 Conn. 952, 817 A.2d 110 (2003). ''[A]ll that is required is that the evidence have relevance, and the fact that ambiguities or explanations may exist which tend to rebut an inference of guilt does not render evidence of flight inadmissible but simply constitutes a factor for the jury's consideration.'' (Internal quotation marks omitted.) *State* v. *Scott*, 270 Conn. 92, 105, 851 A.2d 291(2004), cert. denied, U.S. , 125 S. Ct. 1861, 161 L. Ed. 2d 746 (2005).

The defendant also claims that the court failed to instruct the jury of her innocent explanation for leaving the scene. The defendant failed to preserve this claim for our review. Because it is not of constitutional magnitude, I decline to review it. *State* v. *Tyson*, 43 Conn. App. 61, 65–66, 602 A.2d 536, cert. denied, 239 Conn. 933, 683 A.2d 401 (1996); see *State* v. *Tilman*, 220 Conn. 487, 504, 600 A.2d 738 (1991), cert. denied, 505 U.S. 1207, 112 S. Ct. 3000, 120 L. Ed. 2d 876 (1992).

Respectfully, for the foregoing reasons, I would affirm the judgment of the trial court.

[1] The court granted the defendant's motion for a judgment of acquittal on count four of the amended information, breach of the peace in the second degree in violation of General Statutes § 53a-181 (a) (5). The jury found the defendant not guilty of the second count of breach of the peace in the second degree.

[2] At trial, the court questioned the state whether it was relying simply on the defendant's oral refusal to comply with the officer's request. The state responded that, in addition to the defendant's words, it intended to prove that the defendant obstructed, resisted or hindered the officers by failing to produce the requested information.

[3] I see no relevancy as to the conduct of the defendant's mother at the scene of the incident to the issue in this appeal. On the basis of this evidence, the jury, however, reasonably could have drawn inferences in favor of the state as to why the mother did not accompany her son to the emergency room rather than intercede between the defendant and the police officers. *Furthermore, the defendant's brother testified that he had declined the police officers' offer to call an ambulance for him.*

[4] I also take exception to the majority's application of *State* v. *Williams*, 205 Conn. 456, 534 A.2d 230 (1987), to this case. To avoid the risk of constitutional infirmity, our Supreme Court has construed § 53a-167a ''to proscribe only physical conduct and fighting words that by their very utterance inflict injury or tend to incite an immediate breach of the peace.'' (Internal quotation marks omitted.) Id., 473. The police officers exercised discretion as to the events that were transpiring. They did not react to the defendant's words but rather to the crowd that was converging as a result of her vulgar responses to them. Rather than escalate the event, they told the defendant not to leave before the infraction ticket was given to her.