



IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONNIE STEELE,)
)
 Defendant-Below,)
 Appellant,)
)
 v.)
)
STATE OF DELAWARE,)
)
 Plaintiff-Below,)
 Appellee.)

No. 234, 2023

**ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE**

STATE'S ANSWERING BRIEF

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NATURE AND STAGE OF THE PROCEEDINGS

On March 28, 2022, a New Castle County grand jury issued an indictment, charging Ronnie Steele with Driving Under the Influence of Alcohol, Any Drug, or a Combination of Alcohol and Any Drug (21 *Del. C.* § 4177(a)) (“DUI”), Driving Without a License (21 *Del. C.* § 2701(a)), and No Proof of Insurance (21 *Del. C.* § 2118(p)). *See* A1 at D.I. 1; A6-7. On August 12, 2022, Steele failed to appear for arraignment, and the Superior Court issued a *capias*. A1 at D.I. 5. The *capias* was returned on October 24, 2022, the Court set bail at \$15,000 cash, and Steele was committed to the Department of Correction. A1 at D.I. 7, 8. The Superior Court arraigned Steele on November 29, 2022, where Steele entered a plea of not guilty and demanded a jury trial. A2 at D.I. 10.

On January 24, 2023, Steele filed a motion to suppress his statements to police. A2 at D.I. 18. The State responded to Steele’s motion on February 10, 2023. A3 at D.I. 21. On February 17, 2023, the Superior Court conducted a suppression hearing, at the conclusion of which the court denied the motion. A3 at D.I. 22. The State orally moved to amend the indictment, which the Superior Court granted. A3 at D.I. 22.

On February 21, 2023, after a one-day trial, the Superior Court jury found Steele guilty of DUI, the only charge remaining in the amended indictment. A4 at

D.I. 27. The Superior Court ordered a presentence investigation. A4 at D.I. 27. On June 9, 2023, the trial judge sentenced Steele, effective October 24, 2022, to five years of Level V incarceration, suspended after six months for one year of Level III probation. A4 at D.I. 31; Ex. B to Op. Brf.

Steele timely appealed and filed an opening brief. This is the State's answering brief.

SUMMARY OF THE ARGUMENT

I. Appellant's claim is denied. Steele waived his claim of insufficient evidence by failing to move for judgment of acquittal at trial. Steele cannot overcome his default because the error complained of is not so clearly prejudicial to substantial rights as to jeopardize the very fairness and integrity of the trial. The State presented sufficient evidence through Trooper Fiore's testimony, if believed, to establish all the required elements of the charge of driving under the influence of alcohol, a drug, or a combination of alcohol and a drug. Steele was found unresponsive behind the wheel of his pickup truck parked in the middle of a car wash at a Shell gas station, the engine running, and a hypodermic needle containing a brown liquid in his hand. Once revived by medics, Steele made reference to having received Narcan, and admitted to having consumed vodka.

STATEMENT OF FACTS

On August 2, 2021, at approximately 6:30 a.m., Corporal Michael Fiore, Jr., a Delaware State Police trooper, was on patrol. A17; A24. Trooper Fiore was dispatched to the Shell gas station on Naamans Road in Claymont, Delaware, after a 911 caller reported that there was an unresponsive person in a vehicle in the car wash with the engine running. A24-25. Upon arrival at the car wash, Trooper Fiore “observed a white Ram 1500 pick-up truck in the car wash. It was running, and there was a subject seated inside who was completely unresponsive.” A26. The car wash was not activated. A27.

The Claymont EMS and New Castle County paramedics arrived at the car wash almost simultaneously to the trooper’s arrival. A27. They found a white pickup truck in the car wash, as described by the 911 caller. A29. When the responders opened the door, they saw a man, later identified as Ronnie Steele, seated in the driver’s seat, “completely unresponsive, sweating profusely.” A27. Steele was alone in the vehicle, and “he had a needle, a hypodermic syringe with a brown liquid substance inside injected into his right hand.” A27-28. Trooper Fiore noted that Steele appeared to have “a liquid pooled around his crotch area indicating that he may have urinated himself.” A28. Trooper Fiore also detected the odor of an alcoholic beverage in the vehicle. A28.

The EMS and paramedics then placed Steele on a gurney and into the ambulance. A30. Trooper Fiore remained outside of the ambulance while the paramedics treated Steele, but the trooper watched through the open doors. A30. The paramedics removed the syringe from Steele's hand and disposed of it by placing it in a "sharps container" in the ambulance. A31. The paramedics inserted an IV into Steele and gave him intravenous drugs. A30. At that time, Steele revived and was no longer unresponsive. A31. Steele requested transport to Saint Francis Hospital. A31. Trooper Fiore followed the ambulance to the hospital and met up with Steele in a treatment room in the Saint Francis Hospital's emergency department. A32.

At the hospital, Trooper Fiore spoke with Steele to investigate whether Steele might have been under the influence of alcohol or drugs. A32. Steele spoke with the trooper, but was slurring his words, had watery, bloodshot eyes, and an odor of alcohol on his breath. A33. Steele was disorderly, argumentative, and uncooperative with both the officer and the hospital staff. A34. Steele told Trooper Fiore that his head was spinning from Narcan, and that he had had vodka a while ago. A34. Steele states that the needle in his hand was not his and refused consent for a blood draw. A34. Given Steele's belligerent behavior, Trooper Fiore

elected not to seek a warrant for a blood draw for the safety of himself and hospital staff who would have to hold Steele down to obtain blood. A36.

No empty containers of alcohol or any drug paraphernalia other than the needle were found in Steele's vehicle. A54-55. Steele's fiancé stated that Steele was not drinking or taking drugs that morning when she saw him about 6:00 a.m. A82-83.

I. THE STATE PRESENTED SUFFICIENT EVIDENCE AT TRIAL FOR THE JURY TO CONVICT STEELE OF DRIVING UNDER THE INFLUENCE.

Question Presented

Whether the State presented sufficient evidence at trial that Steele was under the influence of alcohol, a drug, or a combination of alcohol and a drug such that his driving was impaired.

Standard and Scope of Review

Sufficiency of the evidence claims are normally reviewed *de novo* to determine “whether any rational trier of fact, viewing the evidence in the light most favorable to the State, could find a defendant guilty beyond a reasonable doubt.”¹ But, “[a] claim of insufficient evidence is reviewable on appeal only if the defendant raised the issue [at] trial.”² If a defendant fails to make a motion for acquittal to the trial court, the claim is waived.³ A waived claim will only be excused if the Court “finds that the trial court committed plain error requiring review in the interests of justice.”⁴ “Under the plain error standard of review, ‘the

¹ *Farmer v. State*, 844 A.2d 297, 300 (Del. 2004) (cleaned up and quotation omitted).

² *Deputy v. State*, 1998 WL 700168, at *2 (Del. Aug. 10, 1998).

³ *Monroe v. State*, 652 A.2d 560, 563 (Del. 1995).

⁴ *Id.*; Supr. Ct. R. 8.

error complained of must be so clearly prejudicial to substantial rights as to jeopardize the very fairness and integrity of the trial.”⁵ “[P]lain error is limited to material defects which are apparent on the face of the record; which are basic, serious and fundamental in their character, and which clearly deprive an accused of a substantial right, or which clearly show manifest injustice.”⁶

Merits of the Argument

Steele contends that no rational trier of fact could find him guilty of DUI based on the evidence the State submitted at trial, because Trooper Fiore’s testimony was insufficient to establish the elements of the offense beyond a reasonable doubt. Not so. There was no challenge to the sufficiency of the evidence at trial. Rather, Steele argued in his closing that Trooper Fiore’s testimony was not credible because it was not corroborated by other witnesses or scientific tests.⁷ Considered in the light most favorable to the State, Trooper Fiore’s observations and the reasonable inferences to be drawn therefrom provided a sufficient basis a rational juror to find that Steele was under the influence of alcohol or drugs or both.

⁵ *Id.* (citing *Dutton v. State*, 452 A.2d 127, 146 (Del. 1986)).

⁶ *Wainwright v. State*, 504 A.2d 1096, 1100 (Del. 1986).

⁷ *See* A103-05.

The State charged Steele with Driving Under the Influence of alcohol, drugs, or both under 11 *Del. C.* § 4177(a).⁸ Section 4177 defines “while under the influence” as “the person is, because of alcohol or drugs or a combination of both, less able than the person would ordinarily have been, either mentally or physically, to exercise clear judgment, sufficient physical control, or due care in the driving of a vehicle.”⁹ “Drive” is defined to include “driving, operating, or having actual physical control of a vehicle.”¹⁰ Further, the statute provides that “[f]or purposes of a conviction premised upon subsection (a) of this section, . . . (2) [n]othing in this section shall preclude conviction of an offense defined in this Code based solely on admissible evidence other than the results of a chemical test of a person’s blood, breath or urine to determine the concentration or presence of alcohol or drugs.”¹¹ As the Superior Court instructed the jury in relevant part:

In order to find the defendant guilty of driving a vehicle while under the influence of alcohol, any drug, or a combination of alcohol and any drug, you must find that all of the following elements have been established beyond a reasonable doubt: One, the defendant drove a motor vehicle at or about the time and place charged; and, two, the defendant was under the influence of alcohol, any drug, or a

⁸ A6.

⁹ 11 *Del. C.* § 4177(c)(11).

¹⁰ 11 *Del. C.* § 4177(c)(5).

¹¹ 11 *Del. C.* § 4177(g).

combination of alcohol and any drug when he drove the motor vehicle.¹²

* * * * *

Not every person who has consumed alcoholic beverages or drugs is under the influence as that phrase is used here. “Under the influence” as defined in Delaware law means that a person is less able than he or she ordinarily would be to exercise clear judgment, sufficient physical control, or due care in the driving of a motor vehicle because of the consumption of alcohol, any drug, or a combination of alcohol and any drug.

It is not necessary that the driver be drunk or intoxicated. Nor is it required that impaired ability to drive be demonstrated by particular acts of unsafe driving. What is required is that a person’s ability to drive safely was impaired by alcohol, any drug, or a combination of alcohol and any drug.¹³

Thus, the first element the State was required to establish beyond a reasonable doubt was that Steele drove the vehicle at or about the time and place charged. Steele was in actual physical control of the pickup truck on the morning of August 2, 2021, at the Shell station car wash in Claymont. Trooper Fiore testified that when he arrived at the scene, Steele was in the driver’s seat with the engine running.¹⁴ That was corroborated by the 911 caller’s statement that a man

¹² A92.

¹³ A94.

¹⁴ A27.

was in the truck with the engine running.¹⁵ The caller's response to a question from the dispatcher that the man in the truck appeared to be Asian was incorrect, but the caller correctly described the truck and the license plate number.¹⁶ In the light most favorable to the State, the evidence that Steele was the operator of the vehicle was sufficient for a juror to find that element beyond a reasonable doubt.

The second element of the charged DUI required the State to establish that Steele was less able than he would ordinarily have been, either mentally or physically, to exercise clear judgment, sufficient physical control, or due care in driving the vehicle because of alcohol or drugs or both. The 911 caller stated that the man in the truck was sleeping and could not be roused, even when the caller pounded on the windows of the truck.¹⁷ Trooper Fiore described Steele as unresponsive.¹⁸ A juror could rationally conclude that a sleeping or unresponsive driver was less able to exercise clear judgment, sufficient control or due care in driving.

¹⁵ B1 (State's Trial Exhibit 4).

¹⁶ B1 (State's Trial Exhibit 4).

¹⁷ B1 (State's Trial Exhibit 4).

¹⁸ A27.

The jury then had to determine if that lack of clear judgment or control was present because of alcohol or drugs or a combination thereof. Trooper Fiore testified that Steele had a needle containing a brown liquid inserted into his right hand when seated in the driver's seat.¹⁹ Trooper Fiore believed the substance in the needle was likely heroin or Fentanyl:

Based on my prior training and experience, the brown liquid substance in the syringe I know based on the one-week drug investigators class and just having with the opioid epidemic being what it is, I come in contact with Fentanyl and heroin on almost a daily basis on the job. That brown liquid substance in a powder form, heroin and Fentanyl appears tannish in color, heat it up, put it in a needle to inject it, it turns to a dark brown to a medium shade of brown. So based on my training and experience, I suspected that to be heroin and/or Fentanyl that was in the needle.²⁰

The jury heard that Trooper Fiore had more than twelve years as a patrol officer, during which he had encountered multiple people under the influence, and he “had advanced training to identify narcotics and/or DUI detection.”²¹ His training included special training through NHTSA, the National Highway Traffic Safety Administration.²² He also attended ARIDE, Advance Roadside Impaired Driving

¹⁹ A27.

²⁰ A37-38.

²¹ A18.

²² A19.

Enforcement, a program “specific for drugged driving and identifying through observations signs of impairment in an individual that may be under the influence of a narcotic.”²³ Trooper Fiore also completed a week-long Counsel of Police Training course about investigating DUI cases.²⁴ He testified about how the training was designed to teach law enforcement officers how to recognize signs of impairment from drugs and alcohol.²⁵

Not only did Trooper Fiore’s training lead him to believe that the syringe stuck in Steele’s hand was heroin or Fentanyl, Steele exhibited signs of impairment consistent with that conclusion. When found by responders, Steele was “unresponsive, sweating profusely.”²⁶ Steele also “had a liquid pooled around his crotch area indicating that he may have urinated himself, which is also a sign of impairment.”²⁷ Trooper Fiore also detected an odor of alcohol in the vehicle.²⁸

Trooper Fiore testified that once revived by the paramedics at the scene, Steele requested transport to Saint Francis Hospital, where he was able to speak

²³ A19.

²⁴ A19-20.

²⁵ *See* A19-24.

²⁶ A27.

²⁷ A28.

²⁸ A28.

with Steele in the emergency room.²⁹ Standing two to five feet away from Steele, Trooper Fiore could detect a “distinct odor of alcoholic beverage emanating from his breath.”³⁰ The trooper also noted additional signs of impairment he had been trained to look for: slurred speech, bloodshot, watery, and glassy eyes, belligerent and disorderly behavior.³¹ Finally, Trooper Fiore testified that Steele informed him that “his head was spinning from the Narcan” and “he had had vodka a while ago.”³² Steele claimed the needle in his hand was not his and he refused to consent to a blood draw.³³

“It is well-settled law that a victim’s testimony . . . alone is sufficient to support a jury’s guilty verdict. There is no requirement that testimonial evidence be corroborated either by physical evidence or corroborating testimony.”³⁴ Trooper Fiore’s testimony, if believed, was sufficient to establish all the elements of the charged offense. As this Court has explained:

²⁹ A31-32.

³⁰ A33.

³¹ A33-34.

³² A34.

³³ A34.

³⁴ *Hardin v. State*, 840 A.2d 1217, 1224 (Del. 2003) (citing *Styler v. State*, 417 A.2d 948, 950 (Del. 1980)).

It is the duty of the jury to determine if the State proved each necessary element of the charges beyond a reasonable doubt. The jury is the sole judge of each witness' credibility and is solely responsible for resolving any conflicts in all of the testimony it hears. The testimony of a sole witness, however, will be sufficient to form the basis for a conviction if the testimony presented by that witness establishes every element of the offense and is found by the jury to be credible.³⁵

Steele's complaints about the trooper's decision not to retrieve the syringe or to seek a search warrant to draw a blood sample, and the State's decision not to call other witnesses to corroborate the trooper's testimony, do not preclude a conviction. Trooper Fiore testified about his observations and the basis for his decisions, and the jury was free to determine his credibility and to make reasonable inferences from the testimony.

In reviewing a claim of insufficient evidence, this Court considers the evidence in the light most favorable to the State and determines whether any rational trier of fact could have found the defendant guilty beyond a reasonable doubt.³⁶ "Evidence of a defendant's guilt may be proven exclusively through circumstantial evidence since this Court does not distinguish between direct and

³⁵ *Hardin*, 840 A.2d at 1224 (citing *Pryor v. State*, 453 A.2d 98, 100 (Del.1982); *Tyre v. State*, 412 A.2d 326, 330 (Del. 1980)).

³⁶ *Hardin v. State*, 844 A.2d 982, 989 (Del. 2004).

circumstantial evidence in a conviction context.”³⁷ “Moreover, there is no requirement that testimonial evidence be corroborated by physical evidence.”³⁸

Trooper Fiore’s testimony regarding Steele’s location in the driver’s seat of his vehicle with the engine running in a car wash while unresponsive with a syringe in his hand, Steele’s appearance and demeanor once revived by medics, and his statements regarding Narcan and vodka, was sufficient to allow the jury to find that Steele was under the influence of alcohol, drugs, or a combination of alcohol and drugs while driving.

³⁷ *Davis v. State*, 706 A.2d 523, 525 (Del. 1998) (citations omitted).

³⁸ *Fletcher v. State*, 2006 WL 240602, at *2 (Del. Jan. 30, 2006) (citing *Hardin*, 840 A.2d at 1224 (citing *Styler*, 417 A.2d at 950)).

CONCLUSION

For the foregoing reasons, the judgment of the Superior Court should be affirmed.

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1. This answer brief complies with the typeface requirement of Rule 13(a)(i) because it has been prepared in Time New Roman 14-point typeface using Microsoft Word 2016.
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CERTIFICATE OF SERVICE

I, Elizabeth R. McFarlan, do hereby certify that on December 4, 2023, I have caused two copies State’s Answer Brief and Appendix to hand-delivered upon the following:

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