

S T A T E O F M I C H I G A N
C O U R T O F A P P E A L S

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAWRENCE W. LESMAN,

Defendant-Appellant.

UNPUBLISHED

July 13, 2001

No. 222582

Allegan Circuit Court

LC No. 95-009774-FH

Before: Saad, P.J., and Holbrook, Jr. and Murphy, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of OUIL, third offense, MCL 257.625(7), entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A sheriff's deputy stopped defendant's vehicle after he observed it traveling at a very slow speed and weaving in its lane. The deputy noticed a strong odor of intoxicants emanating from the vehicle, and observed empty beer cans in the back seat. Defendant acknowledged that he had consumed several beers earlier in the day. Defendant performed some sobriety tests correctly, but failed others. The deputy testified that based on his experience, his observation of defendant's behavior and driving, and defendant's performance on the sobriety tests, he concluded that defendant was driving under the influence of alcohol. Defendant testified that his vehicle tended to weave on the road because it was in disrepair. Moreover, defendant indicated that his ability to perform the sobriety tests correctly was hampered by his physical condition, in particular his bad back. The jury found defendant guilty as charged.

In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992); *People v Warren*, 228 Mich App 336, 343; 578 NW2d 692 (1998), modified 462 Mich 415; 615 NW2d 691 (2000). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

To support a conviction of OUIL, the prosecution must show that the defendant: (1) operated a motor vehicle; (2) on a public highway; (3) in the jurisdiction of the court; (4) while under the influence of alcohol. CJI2d 15.2, 15.3. To establish that the defendant was under the influence of alcohol, the prosecution must show that due to consuming alcohol, the defendant's physical or mental condition was significantly altered, and the defendant was not able to operate a vehicle in a normal manner. CJI2d 15.3(2); *People v Walters*, 160 Mich App 396, 402; 407 NW2d 662 (1987).

Defendant argues that the evidence was insufficient to support his conviction of OUIL. We disagree and affirm. The undisputed evidence established that defendant operated a motor vehicle on a public highway in the jurisdiction of the court. The deputy detected a strong odor of intoxicants emanating from defendant's vehicle and observed empty beer cans in the back seat, and concluded that defendant performed poorly on some sobriety tests. The jury was entitled to accept this testimony as credible, and to reject defendant's explanations for his behavior. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). The deputy's testimony regarding defendant's driving, coupled with the evidence that defendant failed several sobriety tests and defendant's admission that he had consumed several beers earlier in the day, supported a finding that defendant was unable to operate his vehicle in a normal manner. CJI2d 15.3(3); *Walters, supra*. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction of OUIL. *Wolfe, supra*.

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ William B. Murphy