

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

JEFFREY SCOTT STANGE,

Defendant-Appellee.

UNPUBLISHED

March 29, 2002

No. 235847

Washtenaw Circuit Court

LC No. 00-001963-FH

Before: Sawyer, P.J., and Murphy and Hoekstra, JJ.

PER CURIAM.

The prosecutor appeals by leave granted the order of the trial court, which ruled that defendant's statements made to police were inadmissible under the corpus delicti rule. We reverse.

Defendant was involved in a fatal automobile accident at the intersection of Willow Road and Carpenter Road in Washtenaw County. Before the accident, defendant was traveling southbound on Carpenter Road. Denise Smith and her mother, Beatrice Smith, were traveling westbound on Willow Road. The day before the accident, stop signs had been erected on Carpenter Road, making the intersection a four-way stop. A "stop ahead" sign was also erected on Carpenter Road before the intersection.

Denise was driving her car on Willow Road and had stopped at the intersection. After looking for oncoming traffic, she proceeded into the intersection. Denise heard her mother yell out her name, and she glanced over just in time to observe defendant's truck hit the passenger side of her car. Beatrice Smith was killed in the accident.

A police officer spoke with defendant about the accident, and defendant stated that he was very familiar with the intersection. Defendant admitted that he did not notice the "stop ahead" sign on Carpenter Road because it was located between the driveway of two businesses. Defendant stated that he observed a car approaching the intersection when he was approximately 200 feet north of the intersection. Defendant then took his foot off the accelerator and slowed his truck down to forty or forty-five miles per hour. Defendant had been traveling fifty miles per hour before slowing down. Defendant asserted that he observed the car come to a stop, and he put his foot back on the accelerator while still watching the car to make sure it would stay stopped. Defendant stated that he made eye contact with the driver of the car, and that the other car started to enter the intersection. Defendant claimed that he expected the other driver to stop.

Defendant believed that if the car stopped where it was, he could still go around the car by veering to the right. According to defendant, when he realized the car was not going to stop, he attempted to turn his truck back to the left. However, defendant struck the passenger door of the car. Defendant admitted that he did not have time to brake.

Defendant was charged with involuntary manslaughter, MCL 750.321. After defendant was bound over on the charge, defendant argued that the prosecutor could not demonstrate the corpus delicti of involuntary manslaughter independent of defendant's statements to police. Therefore, defendant urged the trial court to find that defendant's statements were inadmissible. The trial court agreed. The prosecutor now appeals by leave granted. The proceedings were stayed pending this appeal.

The corpus delicti rule is limited to "admissions which are confessions, and not to admissions of fact which do not amount to confessions of guilt." *People v Rockwell*, 188 Mich App 405, 407; 470 NW2d 673 (1991), citing *People v Porter*, 269 Mich App 284, 289-291; 257 NW 705 (1934). Defendant's statements in this case constitute admissions of fact, not a confession of guilt. Accordingly, the corpus delicti rule does not apply.¹

In *People v Oliver*, 111 Mich App 734, 741; 314 NW2d 740 (1981), rejected in part on other grounds in *People v Williams*, 422 Mich 381, 387; 373 NW2d 567 (1985), this Court, relying on *Porter*, *supra* at 290-291, noted that the distinction between an admission and a confession is that an admission does not of itself show guilt but needs proof of other facts that are not admitted.

Involuntary manslaughter requires the prosecutor to prove that defendant caused the death, and in doing the act that caused death, defendant acted in a grossly negligent manner. *People v England*, 176 Mich App 334, 337-338; 438 NW2d 908 (1989), *aff'd sub nom People v Perlos*, 436 Mich 305; 462 NW2d 310 (1990); CJI2d 16.10. Gross negligence means more than ordinary negligence; it means willfully disregarding the results to others that might follow from an act or failure to act. See *England*, *supra* at 338; CJI2d 16.18.

In order to convict defendant of involuntary manslaughter, the prosecutor needed to prove other facts aside from the facts contained in defendant's statements; therefore, defendant's statements were admissions and did not constitute a confession. Defendant's statements were more of an effort to diminish defendant's fault and to make it look as if he was acting prudently under the circumstances. The prosecutor still needed to show additional facts establishing that a death occurred that was caused by defendant's actions, i.e., that defendant was guilty of involuntary manslaughter. Moreover, there were pertinent facts not contained in defendant's statements that could possibly give rise to involuntary manslaughter. A trooper testified that the "stop ahead" sign was orange with flags on top. Denise Smith testified that she only saw defendant's truck a second before impact, which would be contrary to defendant's assertion

¹ We note that the prosecutor did not raise the admission/confession distinction below; however, review may be granted if consideration of the issue is necessary to a proper determination of the case. *People v Hermiz*, 462 Mich 71, 76-77; 611 NW2d 783 (2000). Here, consideration of the issue is necessary for a proper determination as to whether the corpus delicti rule is even implicated.

about earlier eye contact and negate his claim that he expected the other driver to stop. We believe that its necessary in this case for the prosecutor to show such additional facts in order to establish guilt as to the crime of involuntary manslaughter. Accordingly, defendant's statements were admissions and did not constitute a confession; therefore, the trial court erred in determining that the statements were inadmissible. In light of our conclusion, we need not address the prosecutor's remaining arguments concerning the corpus delicti rule.

Reversed. We do not retain jurisdiction.

/s/ William B. Murphy

/s/ Joel P. Hoekstra