

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD DWAYNE SCOTT,

Defendant-Appellant.

UNPUBLISHED

August 12, 2004

No. 248034

Calhoun Circuit Court

LC No. 02-002256-FH

Before: Murray, P.J., and Markey and O'Connell, JJ.

MEMORANDUM.

Defendant appeals as of right from his jury trial convictions of operating a motor vehicle while under the influence of intoxicating liquor, third offense (OUIL 3rd), MCL 257.625(8)(c), resisting and obstructing an officer, MCL 750.479(1), and operating a motor vehicle with a suspended license, MCL 257.904. Defendant was sentenced to concurrent terms of two to fifteen years' imprisonment for the OUIL 3rd and resisting an officer convictions, plus ninety-three days for the suspended license conviction. We affirm.

Defendant's only argument on appeal is that there was insufficient evidence that he was the individual operating the motor vehicle so as to support his conviction of OUIL 3rd. We disagree. In reviewing the sufficiency of the evidence to support a conviction, we review the evidence de novo in the light most favorable to the prosecution to decide whether a rational factfinder could have found the essential elements of the crime were proven beyond a reasonable doubt. *People v Hunter*, 466 Mich 1, 6; 643 NW2d 218 (2002). Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove an element of a crime. *People v Bulmer*, 256 Mich App 33, 37; 662 NW2d 117 (2003). The offense of OUIL 3rd entails operating a motor vehicle upon a highway or other place open to the general public with a blood alcohol level of .10 or higher. MCL 257.625(1)(b).

Contrary to defendant's assertion, we conclude that there was sufficient evidence presented at trial to find beyond a reasonable doubt that defendant operated the motor vehicle. Officer Miller testified that upon arriving at the scene of the accident, he saw defendant standing near the vehicle and that two witnesses at the scene told him that defendant had operated the vehicle that night. Those same witnesses testified at trial that defendant had operated the vehicle at some point during the night, one of which testified that she saw defendant operating the vehicle at the scene shortly before the accident. This evidence was alone sufficient for a jury to find defendant guilty beyond a reasonable doubt of OUIL 3rd.

In support of his insufficiency argument, defendant urges this Court to accept his own testimony and that of his girlfriend as the truth over the testimony of Officer Miller and the witness who testified that she saw defendant operating the vehicle. However, this Court will not interfere with the jury's witness credibility determinations, and we must resolve all conflicts in the evidence in favor of the prosecution. *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004).

Affirmed.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Peter D. O'Connell