STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1231

State of Minnesota,
Respondent,

vs.

Daniel Ricardo Laird,
Appellant.

Filed July 25, 2011
Affirmed
Ross, Judge

Hennepin County District Court
File No. 27-CR-09-54723

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Lee W. Barry, III, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellant Public Defender, Davi E. Axelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Stauber, Judge; and Harten, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

ROSS, Judge

Daniel Ricardo Laird appeals from his conviction of driving while intoxicated for refusal to submit to testing. He asserts that the state's evidence was insufficient to prove that he was ever actually arrested for driving while impaired, and he argues that he was therefore not required to submit to testing. Because the evidence demonstrates that Laird was arrested for driving while impaired, we affirm.

FACTS

Just after midnight on Halloween 2009, Brooklyn Park Police Officer Andrew Bromen spotted a Suburban weaving within its lane. He followed it as it rolled through a stop sign. He then stopped the vehicle and spoke with its driver, Daniel Laird.

Officer Bromen learned that Laird was driving with a cancelled license. He asked Laird to get out of the car. He noticed that Laird had bloodshot, watery eyes and smelled of alcoholic beverages, and he suspected that Laird was intoxicated. He placed Laird under arrest for driving after cancellation. Bromen conducted an inventory search of Laird's vehicle and found an empty can of beer and a bottle of codeine cough syrup prescribed to another person.

Officer Bromen took Laird to jail and administered field sobriety tests, which supported the officer's perception that Laird was intoxicated. He therefore read Laird the statutory implied-consent advisory. He specifically told Laird that he was under arrest for driving while impaired. He also told him that he was required to take a test to determine whether he was intoxicated and that refusal to take the test is a crime.

Laird agreed to take a breath test but began coughing and claiming to have trouble breathing. Paramedics arrived but Laird refused help. Laird did not complete the breath test.

Officer Bromen again read Laird the implied-consent advisory, again telling him that he was under arrest for driving in violation of the impaired-driving law. Officer Bromen next offered Laird a urine or blood test. Laird agreed to take a urine test. After 25 minutes and drinking a glass of water, Laird did not produce a sufficient sample. Officer Bromen reminded Laird of the option of a blood test. Laird refused. Throughout the testing attempts, Laird asked the officer whether marijuana, Vicodin, or some other chemical would show up on a test.

The state charged Laird with refusing to submit to a chemical test constituting first-degree driving while impaired in violation of Minnesota Statutes section 169A.20, subdivision 2 (2008), and driving after cancellation in violation of Minnesota Statutes section 171.24, subdivision 5(1) (2008). A jury found him guilty of both offenses. Laird appeals the test-refusal conviction.

D E C I S I O N

Laird argues that he cannot be convicted of the crime of refusing to submit to testing because the state did not introduce sufficient evidence to prove one of the crime's elements. He asserts specifically that he was never arrested for driving while impaired, a prerequisite for the testing requirement, so he cannot be guilty. In considering a claim of insufficient evidence, we limit our review to analyzing the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to

have allowed the jurors to reach their guilty verdict. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). We assume that the jury believed the state's evidence and disbelieved any contrary evidence. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). We will not disturb the jury's verdict if the jury could reasonably conclude beyond a reasonable doubt that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476–77 (Minn. 2004).

When an officer has probable cause to believe that a person has committed an impaired-driving offense, the implied-consent statute authorizes the officer to require a breath, blood, or urine test to determine if the person has been using alcohol or controlled substances. Minn. Stat. § 169A.51, subd. 1 (2008). Refusing to submit to testing is a crime. Minn. Stat. § 169A.20, subd. 2. In addition to the officer's probable cause, one of four conditions must exist before an officer may require a test. Relevant here, one condition is that "the person has been lawfully placed under arrest for [driving while impaired]." Minn. Stat. § 169A.51, subd. 1(b).

To prove beyond a reasonable doubt that Laird was guilty of refusing to submit to a chemical test, the state was therefore required also to prove that he was lawfully placed under arrest for impaired driving. *See State v. Ouellette*, 740 N.W.2d 355, 360 (Minn. App. 2007), *review denied* (Minn. Dec. 19, 2007) (holding that prerequisites to the administration of a chemical test are elements of the criminal-refusal statute). Although Officer Bromen first arrested Laird for driving after cancellation, the officer had already observed preliminary indications of Laird's impairment. A vehicle search added to the officer's suspicion and field sobriety tests confirmed that Laird was intoxicated. The

officer specifically told Laird that he was under arrest for violating the impaired-driving law. This evidence is sufficient to prove that the officer lawfully placed Laird under arrest for impaired driving. Sufficient evidence supports the jury's verdict.

Affirmed.