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ARKANSAS COURT OF APPEALS

DIVISION III
No. CR-18-104

CHRISTOPHER DESHUN WARREN
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered September 12, 2018

APPEAL FROM THE LONOKE
COUNTY CIRCUIT COURT
[NO. 43CR-17-272]

HONORABLE BARBARA ELMORE,
JUDGE

AFFIRMED

N. MARK KLAPPENBACH, Judge

Christopher Deshun Warren was cited for driving on a suspended license after further investigation into an accident revealed that he was one of the drivers involved. He was convicted in the Ward District Court and appealed to the Lonoke County Circuit Court. At the bench trial, a certified copy of Warren’s driving record—reflecting that his driver’s license had been suspended on the date in question—was admitted into evidence without objection. Warren’s defense was that he was not one of the drivers involved in the accident. The circuit court found Warren guilty, and he now appeals. We affirm.

Nathan Pruss testified that on May 11, 2016, he was outside his place of business on Highway 5 in Cabot when he saw a collision between a car and a truck. He ran out to the wreck to make sure everyone was okay. Pruss saw the drivers exit each vehicle and identified Warren in court as the driver of the car. Pruss said that there were no

passengers, and no one else was there besides Warren and the man driving the truck. He had never met Warren before.

Corporal Jason Dooley of the Arkansas State Police responded to the parking lot where the drivers had moved their vehicles following the accident. He was met by a woman named Alma Dodson, who identified herself as a driver involved in the accident. Dodson told Dooley that the other driver, Rickey McGraw, had left the scene, but she had obtained his insurance information and license plate number. Dooley said that an unidentified man was also at the scene. After finishing his investigation, Dooley issued citations to McGraw. However, Dooley was subsequently contacted by McGraw and his insurance company, which prompted further investigation. Dooley then spoke to Pruss, who told him that there was one man in each vehicle. Dooley said that McGraw identified Warren as the other driver in the accident after being shown Warren's picture.

Alma Dodson testified in Warren's defense. She said that it was she, not her friend Warren, who was driving her car and had the wreck with McGraw. Dodson said that following the accident, she called the police, they moved their vehicles from the road, and they exchanged insurance information. She said that McGraw left to pick up his child before the police arrived, and she then called Warren. Dodson testified that a friend dropped Warren off at the scene after Dooley had arrived. She denied seeing anyone come up to her after the wreck to check on her.

On appeal, Warren argues that there was no evidence to support the finding that he was the driver of the car without resorting to speculation and conjecture. In reviewing a

challenge to the sufficiency of the evidence, we view the evidence in a light most favorable to the State and consider only the evidence that supports the finding of guilt. *Gorman v. State*, 366 Ark. 82, 233 S.W.3d 622 (2006). We affirm a conviction if substantial evidence exists to support it. *Id.* Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other, without resorting to speculation or conjecture. *Id.*

We must first determine whether Warren's argument is preserved for appellate review. In a nonjury trial, a motion to dismiss shall be made at the close of all the evidence and shall state the specific grounds therefor. Ark. R. Crim. P. 33.1(b). If the defendant moves for dismissal at the conclusion of the prosecution's evidence, the motion must be renewed at the close of all the evidence. *Id.*

At the conclusion of the State's case, Warren moved to dismiss, stating as follows:

Your Honor, we'd move to dismiss the Driving on Suspended, alleging, obviously, the State hasn't provided enough information to the Court to reach such a conclusion without resorting to speculation or conjecture.

At the close of all the evidence, Warren renewed his motion and incorporated his previous argument. Pursuant to Arkansas Rule of Criminal Procedure 33.1(c), a motion for dismissal based on insufficiency of the evidence must specify the respect in which the evidence is deficient, and a motion merely stating that the evidence is insufficient does not preserve for appeal issues relating to a specific deficiency. Because Warren's motion was nonspecific, he failed to preserve his argument regarding his identity as the driver of the car. See *Williamson v. State*, 2009 Ark. 568, 350 S.W.3d 787 (holding that defendant failed

to preserve his argument that there was insufficient evidence as to his identity as the murderer). Although Warren identified the issue in his closing argument, a dismissal argument made in a closing argument does not preserve the issue of sufficiency, even in a bench trial. *Hendrix v. State*, 2014 Ark. App. 696, 450 S.W.3d 692.

Affirmed.

GLADWIN and BROWN, JJ., agree.

Hancock Law Firm, by: *Sharon Kiel*, for appellant.

Leslie Rutledge, Att'y Gen., by: *Amanda Jegley*, Ass't Att'y Gen., for appellee.