

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

NATHANIEL JESUS ROMO,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D21-779

November 24, 2021

Appeal from the Circuit Court for Sarasota County; David Lee Denkin, Judge.

Howard L. Dimmig, II, Public Defender, and Cynthia J. Dodge, Assistant Public Defender, Bartow, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Cynthia Richards, Assistant Attorney General, Tampa, for Appellee.

SLEET, Judge.

Nathaniel Romo challenges his county court convictions and sentences for leaving the scene of a crash involving unattended

property (count one) and making a false report (count two). The trial court held a bench trial, after which it adjudicated Romo guilty and sentenced him to six months' probation, a twelve-hour driver improvement course, seventy hours' community service, and a suspended ten-day jail sentence. Because the trial court erred in denying Romo's motion for judgment of acquittal on the charge of leaving the scene of a crash involving unattended property, we reverse Romo's conviction and sentence for count one. We affirm in all other respects.

The evidence adduced at trial showed that on April 6, 2020, Romo's vehicle lost control while making a left turn on a rain-slick road. The vehicle slid onto a grassy area that contained a pedestrian traffic light pole, struck the pole, and ultimately slid into an empty restaurant parking lot next to the grassy area. The pole remained in the middle of the parking lot, and the vehicle eventually came to rest in front of the restaurant, where it remained until police arrived. Two witnesses approached the vehicle to check on the occupants and then immediately went across the street to a convenience store, where they reported the incident to the police. A deputy who was in the area arrived within minutes of dispatch and

saw Romo and his passenger standing outside of the vehicle, where they remained throughout the investigation.

On appeal, Romo argues that the trial court erred in denying his motion for judgment of acquittal on the charge of leaving the scene of a crash involving unattended property. We agree.

We review a ruling on a motion for judgment of acquittal under a de novo standard and must determine whether the conviction was supported by competent substantial evidence. *Pagan v. State*, 830 So. 2d 792, 803 (Fla. 2002). "If, after viewing the evidence in the light most favorable to the State, a rational trier of fact could find the existence of the elements of the crime beyond a reasonable doubt, sufficient evidence exists to sustain a conviction." *Id.* (citing *Banks v. State*, 732 So. 2d 1065 (Fla. 1999)).

To prove the crime of leaving the scene of a crash involving damage to unattended property, one of the elements the State had to establish beyond a reasonable doubt was that Romo failed to immediately stop at the scene of the crash or collision and then either (a) failed to locate and notify the operator or owner of the other property of his name and address and the registration number of the vehicle he was driving or (b) failed to attach securely

in a conspicuous place in or on the other property a written notice giving his name and address and the registration number of the vehicle he was driving and, without unnecessary delay, notify the nearest police station. *See Fla. Std. Jury Instr. (Crim.) 28.4(b); § 316.063(1), Fla. Stat. (2020).*

Here, Romo did stop. The vehicle was parked in front of a closed restaurant, and Romo was standing in front of the entrance to the restaurant. Despite the State's argument that Romo did not intend to stay, Romo never left the scene. He was standing in front of the parked vehicle when the deputy arrived on the scene a few minutes after the crash. The statute does not criminalize an intent to leave the scene; a person must have actually failed to stop. Furthermore, because the deputy arrived within minutes of the accident, his arrival obviated the requirement that Romo contact the police without unnecessary delay.

Accordingly, we conclude that the trial court erred in denying Romo's motion for judgment of acquittal, and we reverse his conviction and sentence on the charge of leaving the scene of a crash involving damage to unattended property.

Affirmed in part, reversed in part, and remanded.

MORRIS, C.J., and LUCAS, J., Concur.

Opinion subject to revision prior to official publication.