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IN THE
COURT OF APPEALS OF INDIANA

FRANCISCO JAVIER RAMON, JR.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 28A01-0911-CR-555
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE GREENE SUPERIOR COURT
The Honorable Dena A. Martin, Judge
Cause No. 28D01-0806-FD-306

May 28, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Following a jury trial, Francisco Javier Ramon, Jr. was convicted of operating a vehicle while intoxicated in a manner that endangered a person.[1] Ramon claims the evidence is insufficient to support his conviction. We affirm.

FACTS AND PROCEDURAL HISTORY

In the early morning hours of July 17, 2008, Sam Summerville saw Ramon driving a small, dark colored car on Spring Street in Bloomfield, Indiana. Summerville recognized Josh Trinkle in the passenger seat and Billy Stewart in the back, and noted another unidentified person was in the car. Summerville believed Ramon was drunk from the way he was driving. He saw the car swerve back and forth on the road, almost going over the curb. He then watched Ramon skid off the road at a low rate of speed, ending up in an embankment twelve to fifteen feet off the road. Shortly thereafter, Bethany Soriano saw a small, dark colored car teetering over the embankment. She did not see anyone in the car as she drove by, so instead of calling 911, she called her friend, Officer Jordan Hasler, and asked him to check the scene. When Soriano drove by a second time a few minutes later, she noticed Ramon getting out of the driver's side of the car and a woman getting out of the passenger's side.

When Officer Hasler arrived at the scene, he found a Chevy Cavalier hanging nose down over the embankment. The car was twelve to fifteen feet off the roadway, and there were skid marks going off the road. No one was around the car. Ramon's brother, Damian, arrived at the scene. He spoke to Officer Hasler and then retrieved Ramon from Damian's

[1] Ind. Code § 9-30-5-2(b).

residence. Officer Hasler noticed Ramon had a strong odor of alcoholic beverage on his breath, had red bloodshot glassy eyes, a thick tongue, and seemed confused. Ramon indicated he suspected his brake line was cut, which caused him to miss the entrance to Damien's driveway and run off the road.

The State charged Ramon with operating a vehicle while intoxicated in a manner that endangered a person and enhanced that charge to a Class D felony because Ramon had been convicted previously of driving while intoxicated.

DISCUSSION AND DECISION

In reviewing insufficiency of the evidence claims, we

> consider only the probative evidence and reasonable inferences *supporting* the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (citations and quotations omitted) (emphasis in original).

Ramon does not dispute that he was intoxicated at the time of the accident, but he contends the State did not prove the element of endangerment. To prove endangerment, the State must prove the defendant was operating the vehicle in a condition or manner that

"could have endangered any person, including the police, public, or the defendant." *Slate v. State*, 798 N.E.2d 510, 515 (Ind. Ct. App. 2003). "[P]roof that defendant's condition rendered operation of the vehicle unsafe is sufficient to establish the endangerment." *Staley v. State*, 895 N.E.2d 1245, 1249 (Ind. Ct. App. 2008), *trans. denied*.

Ramon relies on *Outlaw v. State*, 918 N.E.2d 379, 382 (Ind. Ct. App. 2009), *trans. pending*. Outlaw was pulled over for an inactive license plate light. After he was pulled over, the officer observed alcohol on Outlaw's breath, and Outlaw was charged with driving while intoxicated in a manner that endangered another person. We held evidence of Outlaw's intoxication, by itself, was not enough to prove he endangered his passengers. *Id*.

Outlaw does not control. No one reported erratic driving by Outlaw. Ramon was seen driving erratically with passengers in his car. That Ramon was driving erratically and crashed his car were sufficient to prove Ramon drove his vehicle in a manner that endangered a person. *See, e.g.*, *Staley*, 895 N.E.2d at 1251 (finding sufficient evidence of endangerment where defendant drove without his lights on at night and drove ten miles per hour over the speed limit). Therefore, we affirm.

Affirmed.

BAILEY, J., and BARNES, J., concur.