

STATEMENT OF THE CASE

Peter Doffin appeals his conviction, after a jury found him guilty of resisting law enforcement, as a class D felony; operating a vehicle while intoxicated, as a class C misdemeanor; driving while suspended, as a class A misdemeanor; reckless driving, as a class B misdemeanor; operating while intoxicated, endangering a person, as a class A misdemeanor; and after Doffin pled guilty to operating while intoxicated, a class D felony.¹

We affirm.

ISSUE

Whether the evidence was sufficient to support a finding that defendant was intoxicated and/or impaired.

FACTS

On March 13, 2006 at about 11:55 p.m., Peter Doffin was sitting in his car on Elizabeth Street in Schererville. Officer Buonadonna of the Schererville Police Department observed Doffin and drove up to Doffin's vehicle. Doffin sped away. Officer Buonadonna noted that Doffin's taillight was out and attempted to execute a traffic stop of Doffin by turning on his emergency lights. Doffin, however, did not stop. Officer Buonadonna radioed to dispatch that Doffin had refused to stop and was fleeing, which resulted in a low-speed chase involving Officer Buonadonna as well as other officers of the Schererville Police Department. The chase continued for approximately eight miles and ended in the neighboring town of Griffith. During the pursuit, officers

¹ Doffin does not appeal his convictions of resisting law enforcement, driving while suspended, or reckless driving.

observed Doffin disregarding stop signs, repeatedly weaving across the double yellow lines into on-coming traffic, and almost striking one of the Schererville police vehicles, as well as the vehicle of a bystander. The police were able to stop Doffin only after boxing him in with their vehicles.

Upon arresting Doffin, Officer Buonadonna noticed a strong odor of marijuana emanating from Doffin. In addition, Officer Buonadonna noticed that Doffin's speech was slurred, his eyes were bloodshot and watery, he was uncooperative, and he was unable to maintain his balance. Based on these observations, Officer Buonadonna suspected that Doffin was intoxicated and offered him various field sobriety tests as well as a breath test. Doffin refused all of these tests. A search of Doffin, after his arrest, revealed a pack of cigarette rolling papers. Officer Buonadonna also discovered that Doffin's license had been suspended.

On March 14, 2006, the State charged Doffin with resisting law enforcement, as a class D felony; operating while intoxicated, as a class C misdemeanor; operating while intoxicated, endangering a person, as a class A misdemeanor; driving while suspended, as a class A misdemeanor; reckless driving, as a class B misdemeanor; and operating while intoxicated with a prior conviction within five years, as a class D felony. On April 10, 2007, a jury convicted Doffin on all counts except for the count of operating while intoxicated as a class D felony, to which he pled guilty the same day. Immediately following the trial and upon entry of his guilty plea, the trial court sentenced Doffin to two and one-half years for the class D felony charge of operating while intoxicated and two years for the resisting law enforcement charge; both sentences to be served

concurrently. The trial court also sentenced Doffin to one year for driving while suspended and six months for the reckless driving conviction, also to be served concurrently with each other but consecutively to the felony charges.

DECISION

Doffin challenges the sufficiency of the evidence with regard to his convictions based on the operating while intoxicated charges. First, Doffin argues that there was insufficient evidence to support a showing that he was intoxicated. Second, he asserts that the evidence was insufficient to prove that he was impaired.

Where a defendant challenges the sufficiency of the evidence, the reviewing court will not reweigh the evidence or judge the credibility of the witnesses, and respects “the jury’s exclusive province to weigh conflicting evidence.” *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005) (citing *Alkhalidi v. State*, 753 N.E.2d 625, 627 (Ind. 2001)). A reviewing court must affirm a conviction “if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.” *Id.* (citing *Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

Pursuant to Indiana Code section 9-30-5-2, the State must prove beyond a reasonable doubt that Doffin operated a vehicle while intoxicated. Despite Doffin’s argument that circumstantial evidence is insufficient to sustain a conviction, we have long-held to the contrary. *Jellison v. State*, 656 N.E.2d 532, 535 (Ind. Ct. App. 1995). There is no requirement that the State provide proof of a blood test or a defendant’s specific blood alcohol content to prove intoxication. *Id.*

At the time of his arrest, Officer Buonadonna observed that Doffin's eyes were bloodshot and watery. He also noticed that his speech was slurred and that a "strong odor of marijuana" was emanating from him. (Tr. 33). Furthermore, Officer Buonadonna noted that after Doffin had been transported to the police station, his balance was unsteady. This evidence created a reasonable inference upon which a reasonable trier of fact could have found that Doffin was intoxicated at the time of his arrest.

Doffin's second argument asserts that there was insufficient evidence to find him impaired. His argument is premised on the fact that the State was required to show that he was: (1) under the influence of a controlled substance, (2) that as a result of being under the influence, he suffered an impaired condition, which (3) resulted in a loss of normal control of his faculties. Ind. Code § 9-13-2-86. According to Doffin, the evidence proffered at trial to show that he was under the influence of a controlled substance is at best sufficient to prove possession of a controlled substance, but not sufficient to show he was impaired. We disagree.

Evidence of impairment can include: (1) the consumption of significant amounts of alcohol; (2) impaired attention and reflexes; (3) watery or bloodshot eyes; (4) the odor of alcohol on the breath; (5) unsteady balance; (6) failure of field sobriety tests; and (7) slurred speech. *Ballinger v. State*, 717 N.E.2d 939, 943 (Ind. Ct. App. 1999). Where the impairment is due to use of a controlled substance, the same tests are applicable. *Perkins v. State*, 812 N.E.2d 836, 841 (Ind. Ct. App. 2004).

In this case, the testimony of Officer Buonadonna indicated that Doffin exhibited many of the *Ballinger* conditions. Doffin disregarded attempts by the police to stop him,

veered into the lane of oncoming traffic multiple times, almost struck a bystander's vehicle, led the police on an eight-mile chase and, upon his arrest, he smelled strongly of marijuana, exhibited watery and bloodshot eyes, slurred speech, and was uncooperative. Given these numerous indicators that Doffin was intoxicated, we are hard-pressed to find that his normal faculties were anything but impaired. We therefore find that the evidence was more than sufficient to sustain a reasonable inference that Doffin is guilty beyond a reasonable doubt of operating while intoxicated.

Affirmed.

MAY, J., and CRONE, J., concur.