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**IN THE
COURT OF APPEALS OF INDIANA**

MARCUS DRAPER,)
)
Appellant-Defendant,)
)
vs.) No. 49A02-0602-CR-145
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable William Nelson, Judge
Cause No. 49F07-0502-CM-18273

October 31, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Marcus Draper appeals his conviction after a bench trial of operating a vehicle while intoxicated, a Class A misdemeanor.¹ He argues the State failed to prove he was intoxicated or had endangered any person. The State provided sufficient evidence of both, and we accordingly affirm.

FACTS AND PROCEDURAL HISTORY

On February 3, 2005, at approximately 11:15 p.m., Steven Carey, a part-time Warren Township School Corporation Police Officer, was off school property but was driving his marked car. He saw a dark pick-up truck pull out of a parking lot at a high rate of speed. It went “into the turn lane, crossed the access road, continued westbound in the east bound lanes for a couple of hundred feet trying to work it’s [sic] way around [a] dark colored minivan.” (Tr. at 7.) The minivan was forced to pull off of the road to let the pick-up pass. Carey followed the pick-up truck and radioed for assistance from the Marion County Sheriff’s Department.

The truck pulled into a gas station and Draper got out of the vehicle. Marion County Sheriff’s Deputy Joshua Anderson arrived at the parking lot and saw Draper leaning against the truck. Deputy Anderson testified “[Draper] had watery, bloodshot and glassy eyes. I smelled the odor of an alcoholic beverage about his breath and person. His clothes were disorderly.” (*Id.* at 14-15.)

Deputy Anderson administered field sobriety tests, which Draper failed. Draper agreed to take a chemical breath test. His blood alcohol level was .18%.

¹ Ind. Code § 9-30-5-2.

DISCUSSION AND DECISION

To convict Draper, the State had to demonstrate Draper (1) operated a vehicle; (2) while intoxicated; (3) in a manner that endangered a person. Ind. Code § 9-30-5-2(b). “The element of endangerment is proved by evidence that the defendant’s condition or manner of operating the vehicle could have endangered any person, including the public, the police, or the defendant.” *Weaver v. State*, 702 N.E.2d 750, 753 (Ind. Ct. App. 1998). Draper argues the evidence was insufficient to establish intoxication and endangerment.

In *Weaver*, we found sufficient evidence of endangerment where a police officer “observed Weaver’s truck veer onto the center double yellow line with its front and rear left tires.” 702 N.E.2d at 753. Weaver exceeded the posted speed limit by approximately twenty miles per hour and admitted consuming alcohol. *Id.* Weaver’s speech was slurred, his eyes bloodshot, and his words were difficult to understand. *Id.* We concluded “[t]his evidence and the reasonable inferences to be drawn therefrom support the jury’s conclusion that Weaver’s driving ability was impaired to an extent that endangered himself and/or others.” *Id.*

This case is similar. Draper pulled out of a parking lot at a high rate of speed and forced a minivan off the road. Draper had bloodshot and watery eyes, he smelled of alcohol, and his clothes were disorderly. Draper failed field sobriety tests and his chemical test showed a blood alcohol level of .18%. Draper was intoxicated and his operation of his vehicle endangered himself and others.

Affirmed.

RILEY, J., and BAILEY, J., concur.