

IN THE COURT OF APPEALS OF IOWA

No. 14-2162
Filed November 25, 2015

STATE OF IOWA,
Plaintiff-Appellee,

vs.

RICHARD BROWN,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Joel D. Novak, Judge.

Richard Brown appeals his conviction for first-degree eluding.

AFFIRMED.

Tabitha L. Turner of Turner Law Firm, P.L.L.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Linda J. Hines, Assistant Attorney
General, for appellee.

Considered by Potterfield, P.J., and Doyle and Tabor, JJ.

POTTERFIELD, Presiding Judge.

Richard Brown appeals his conviction for first-degree eluding, contending there is insufficient evidence he was the driver of the minivan involved in the chase and crash on June 5, 2013.

We review sufficiency-of-the-evidence claims for a correction of errors at law. *State v. Edouard*, 854 N.W.2d 421, 431 (Iowa 2014). In deciding whether the evidence is sufficient to support a guilty verdict, we consider the record evidence in the light most favorable to the State, including all reasonable inferences that may be fairly drawn from that evidence. *State v. Showens*, 845 N.W.2d 436, 439–40 (Iowa 2014). If substantial evidence supports the verdict, we will uphold it. *Id.* at 440.

Based on the evidence presented at trial, a reasonable jury could find Brown was the driver of a minivan that sped away when Officer Peter Wilson attempted to make a traffic stop for a missing headlight. At about 9:55 p.m., the driver crashed the minivan trying to make a turn at a high rate of speed. Officer Wilson testified he saw the driver of the minivan running away from the crash scene and described the driver as a bald, black male, approximately five feet, five inches tall and “wearing all green” clothing.

Officer Wilson found a cell phone on the seat of the minivan after he was unsuccessful in pursuing the fleeing driver on foot and returned to the crash scene. The phone rang and the caller identification showed the call was from “Baby Cakes.” Officer Wilson answered the phone and arranged to meet the caller, Khiesha Little. Little identified Brown from a photo as the owner of that cell phone and the person she had called. Little’s sister also identified Brown

from a photo. Officer Wilson examined the photo and identified Brown as the driver he had observed running away from the minivan.

Denise Scovel testified that at 9:00 or 9:30 p.m. on June 5, 2013, she loaned her mother's Town & Country minivan to a black male, "about five-four," who was bald and was wearing "a green shirt with white on it, green pants, and white tennis shoes." Scovel identified Brown as the person to whom she had loaned the minivan and who did not return it.

The jury was not required to accept Brown's sister's alibi testimony that Brown got to her house at 9:30 to 9:45 p.m. on June 5.¹ See *State v. Thornton*, 498 N.W.2d 670, 673 (Iowa 1993) ("The jury is free to believe or disbelieve any testimony as it chooses and to give weight to the evidence as in its judgment such evidence should receive."). Because there was substantial evidence from which a reasonable jury could find that Brown was the driver of the minivan that eluded police, we affirm.

AFFIRMED.

¹ We note that his sister testified Brown did not call before he arrived and he had lost his phone that night. Even assuming Brown did go to his sister's house, the "lost" phone would be consistent with his leaving it behind in the minivan.