

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* LINDSEY TAYLOR KING, Minor.

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PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

LINDSEY TAYLOR KING,

Respondent-Appellant.

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UNPUBLISHED

March 15, 2018

No. 336706

Wayne Circuit Court

Family Division

LC No. 16-002605-DL

Before: MURRAY, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

Respondent appeals as of right her juvenile adjudication of two counts of reckless driving causing serious impairment of a body function, MCL 257.626(3), unlawful use of a motor vehicle, MCL 750.414, and operating a motor vehicle without a valid license, MCL 257.301.<sup>1</sup> We affirm.

I. BACKGROUND

This case arises out of a traffic accident that occurred around 4:00 p.m. on May 29, 2016, which injured Barry Lewis and his wife, Tammy Lewis. That day, Mr. and Mrs. Lewis were celebrating Memorial Day weekend by riding Barry Lewis's motorcycle eastbound on Sibley Road in Huron Township, Michigan. Barry Lewis was driving approximately 40 to 45 miles per hour, when respondent, who was traveling westbound on Sibley Road, abruptly stopped her 2004 Chevy Tahoe, and then proceeded to turn in front of Barry Lewis's motorcycle. The motorcycle collided with respondent's vehicle. The impact bent the motorcycle's handlebars, and Mr. and Mrs. Lewis were both seriously injured. At the time of the accident, respondent was 14 years old, did not have a driver's license, did not have parental permission to drive the vehicle, and had three teenage passengers in the vehicle. Respondent testified that she believed she was capable

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<sup>1</sup> On appeal, respondent only challenges her adjudication of the two counts of reckless driving causing serious impairment of a body function.

of driving the vehicle because she had a permit to drive off road vehicles, and had experience driving a sand rail, which she described as “literally just like a car.” Following a bench trial, the trial court found respondent responsible for unlawful use of a motor vehicle, operating a motor vehicle without a license, and two counts of reckless driving causing serious impairment of a body function. The trial court’s order of disposition referred respondent to Wayne County Children and Family Services (WCCFS) for residential placement and care.

## II. ANALYSIS

On appeal, respondent argues that (1) the trial court misinterpreted and misapplied the totality of circumstances test set forth in *People v McCoy*, 223 Mich App 500; 566 NW2d 667 (1997) when it determined that she acted with willful or wanton disregard for the safety of persons or property as contemplated by MCL 257.626 and (2) insufficient evidence supported her adjudication of two counts of reckless driving causing serious impairment of a body function. We disagree.

“The interpretation of a statute is a question of law that [the Court of Appeals] reviews de novo.” *People v Earl*, 495 Mich 33, 36; 845 NW2d 721 (2014). This Court reviews a challenge to the sufficiency of the evidence in a bench trial de novo by reviewing the evidence in a light most favorable to the prosecution “to determine whether the trial court could have found that the essential elements of the crime were proved beyond a reasonable doubt.” *People v Wilkens*, 267 Mich App 728, 738; 705 NW2d 728 (2005). All conflicts in the record evidence are resolved in favor of the prosecution. *Id.* “Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove the elements of a crime.” *Id.*

### A. THE TRIAL COURT’S INTERPRETATION OF MCL 257.626

Turning first to the trial court’s interpretation of the relevant statute, as noted above, respondent was adjudicated responsible for reckless driving causing serious impairment of a body function in violation of MCL 257.626. This statute provides, in pertinent part, as follows:

- (1) A person who violates this section is guilty of reckless driving punishable as provided in this section.
- (2) Except as otherwise provided in this section, a person who operates a vehicle upon a highway . . . in willful or wanton disregard for the safety of persons or property is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
- (3) Beginning October 31, 2010, a person who operates a vehicle in violation of subsection (2) and by the operation of that vehicle causes serious impairment of a body function to another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. The judgment of sentence may impose the sanction permitted under [MCL 257.625]. . . . [Footnote omitted.]

In *People v Carll*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW2d \_\_\_ (2018) (Docket No. 336272), this Court recently had the opportunity to interpret the statutory language of MCL 257.626. In

*Carll*, the defendant, seventeen years of age at the time of the subject accident, was convicted, following a jury trial, of one count of reckless driving causing death, MCL 257.626(4), and three counts of reckless driving causing serious impairment of a body function, MCL 257.626(3). *Id.*; slip op at 1. The defendant, who had only been licensed for one month, was driving a pickup truck with six other young people in the vehicle; one in the passenger seat, three in the rear of the truck, and two in the bed of the truck. *Id.* After the defendant drove through a stop sign, he hit another car, killing the driver of that car, and the two young men riding in the bed of the truck were seriously injured. *Id.* On appeal, the defendant in *Carll* asserted that the prosecution did not prove beyond a reasonable doubt that he operated the motor vehicle with willful and wanton disregard for the safety of persons or property as contemplated by MCL 257.626. Interpreting MCL 257.626, this Court ruled, in pertinent part, as follows:

The conduct proscribed by subsection (2) of this statute is the operation of a vehicle in “willful or wanton disregard for the safety of persons or property.” It is well settled that “to show that a defendant acted in willful and wanton disregard of safety, something more than ordinary negligence must be proved.” *People v Crawford*, 187 Mich App 344, 350; 467 NW2d 818 (1991). When willful and wanton behavior is an element of a criminal offense it is not enough to show carelessness. Rather, “a defendant must have a culpable state of mind.” *Id.*

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“Willful or wanton disregard” means more than simple carelessness but does not require proof of an intent to cause harm. It means knowingly disregarding the possible risks to the safety of people or property. [*Carll*, \_\_\_ Mich App at \_\_\_; slip op at 2, 3.]

The *Carll* Court concluded that sufficient evidence supported the defendant’s convictions where testimony and forensic evidence at trial established that the defendant “was driving too fast for the conditions.” *Id.*; slip op at 3. Specifically, one of the passengers urged the defendant to slow down on the gravel road on which the defendant was travelling, and stated that the defendant was travelling 30 or 40 miles an hour as he approached a stop sign. *Id.*; slip op at 3. One of the witnesses at trial also testified that the defendant was driving “kind of reckless[,]” and that he did not slow down as he approached a stop sign. *Id.*; slip op at 4. One of the other passengers characterized the defendant’s driving as “weird” and “kind of terrifying[,]” and testified that the defendant was travelling 50 mph before the crash. *Id.*; slip op at 4. A Michigan State Police officer testified that evidence gleaned from the accident reconstruction showed that the defendant was attempting to “gun through” the stop sign, and that the defendant apparently accelerated as he approached the stop sign. *Id.* After reviewing the record evidence, this Court observed:

In sum, there was evidence that defendant purposefully drove through a stop sign at high speed without any attempt to brake and that he may even have accelerated into the intersection. A jury could fairly conclude that defendant’s actions were willful or that they were done with wanton disregard of the potential consequences, i.e. death and serious injury. [*Id.*; slip op at 4.]

In this case, the trial court did not have the benefit of this Court's published opinion in *Carll* when it reached its decision. In *McCoy*, the defendant was convicted of felonious driving in violation of MCL 752.191, which required a showing of gross negligence. *McCoy*, 223 Mich App at 502.<sup>2</sup> This Court evaluated the totality of the circumstances to determine that the record evidence supported the defendant's conviction where the defendant acted with gross negligence when, while driving a speeding vehicle, he struck two children that were crossing a street. *Id.* at 502-504. While *McCoy* involved the interpretation of the felonious driving statute, which required a showing of gross negligence, the *McCoy* Court's analysis of the "totality of the circumstances[ ]" in determining if the defendant acted with gross negligence is consistent with this Court's approach in analyzing the full circumstances of the defendant's behavior in *Carll* in determining whether sufficient evidence supported the defendant's convictions pursuant to MCL 257.626. Moreover, a review of the trial court's ruling from the bench in this case reflects that the trial court found that respondent had the requisite "culpable state of mind." *Carll*, \_\_\_ Mich App at \_\_\_; slip op at 2 (citation and quotation omitted). Specifically, the trial court recognized that respondent's behavior on May 29, 2016 exceeded being careless, and that she acted in a manner knowingly disregarding the possible risks of her behavior to other people. *Id.*; slip op at 3. Accordingly, we discern no error in the trial court's ruling and its interpretation of MCL 257.626.

#### B. RESPONDENT'S CHALLENGE TO THE SUFFICIENCY OF THE EVIDENCE

Respondent next mounts a challenge to the sufficiency of the evidence supporting her adjudication of two counts of reckless driving causing serious impairment of a body function. Specifically, respondent contends that while driving on May 29, 2016, she "obeyed the speed limit, stopped before turning, and avoided dangerous distractions." However, the record evidence, viewed in the light most favorable to the prosecution, amply supported her adjudication of the two counts of reckless driving causing serious impairment of a body function. Respondent, at the time of these offenses, was 14-years-old, and did not have a driver's license. She was also untrained in and inexperienced with driving a motor vehicle like the one she and her three teenage passengers were travelling in on Sibley Road during a busy holiday weekend. Moreover, respondent acted without her parents' permission, taking her father's vehicle without her parents' knowledge. While driving, respondent swerved over the center line, stopped abruptly, and turned left without properly looking for oncoming traffic. Notably, Barry Lewis testified that respondent made "like a real quick stop and turned left in front of us." According to Barry Lewis, respondent turned so closely to the Lewis couple on their motorcycle that "there was no way [Barry Lewis] could stop." Phillip Gegesky testified that respondent was travelling approximately 40 to 45 miles an hour when she engaged in what Gegesky characterized as "an emergency stop, causing [Gegesky] to do an emergency stop." Respondent crossed over the center line, and, in Gegesky's words, "turned right in front of the motorcycle." John Oliver also testified that he saw respondent turn directly in front of Mr. and Mrs. Lewis's motorcycle before her vehicle and the motorcycle collided. By her own admission during her trial testimony, respondent did not look carefully before she made the turn that caused this

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<sup>2</sup> MCL 752.191 was repealed effective February 1, 2002. 2001 PA 134.

serious accident. Respondent also admitted during her testimony that she was text messaging while travelling in the Chevy Tahoe, although reserving such activity for when the vehicle was stopped. The record evidence also demonstrated that respondent's reckless actions caused significant personal injury to Barry Lewis and Tammy Lewis, and that both were still grappling with their injuries at the time of trial and will have to do so in the future. Under these circumstances, the record evidence supports the trial court's conclusion that respondent acted with willful or wanton disregard for the potential consequences of her actions, such as death or serious injury to others, when she drove the Chevy Tahoe on May 29, 2016 without parental permission, without a driver's license, engaging in reckless driving behavior. *Carll*, \_\_\_ Mich App at \_\_\_; slip op at 4; MCL 257.626(2). Accordingly, sufficient evidence was presented to sustain respondent's adjudication holding her responsible for two counts of reckless driving causing serious impairment of a body function in violation of MCL 257.626(3).

### III. CONCLUSION

The trial court's order of disposition is affirmed.

/s/ Christopher M. Murray  
/s/ Mark J. Cavanagh  
/s/ Karen M. Fort Hood