STATE OF MINNESOTA
IN COURT OF APPEALS
A11-818

State of Minnesota,
Respondent,

vs.

Raymond Charles Ploetz,
Appellant.

Filed December 12, 2011
Affirmed
Halbrooks, Judge

Hennepin County District Court
File No. 27-CR-10-53751

Lori Swanson, Attorney General, St. Paul, Minnesota; and

William G. Clelland, James J. Thames, Carson, Clelland & Schreder, Minneapolis, Minnesota (for respondent)

Raymond C. Ploetz, Hanover, Minnesota (pro se appellant)

Considered and decided by Connolly, Presiding Judge; Halbrooks, Judge; and Harten, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

Appellant challenges his petty misdemeanor careless-driving conviction, asserting several arguments related to his trial and the district court's denial of his motion for a new trial. Appellant challenges the district court's application of the presumption of innocence, assessment of the evidence—including its exclusion of, reliance on, and alleged disregarding of, certain exhibits and testimony, and denial of his oral argument related to his motion for a new trial. Because we conclude that the district court correctly applied the presumption of innocence and acted within its discretion, we affirm.

FACTS

Appellant Raymond Ploetz was heading west on a two-lane highway when he started to pass two slower-moving cars. As Ploetz entered the eastbound lane, he saw Officer James Loomis's squad car oncoming in the eastbound lane. Rather than immediately return to his lane, Ploetz accelerated to 70 miles per hour, passed the two cars, and then returned to his lane. Officer Loomis issued Ploetz a careless-driving citation, which Ploetz challenged.

At trial, Officer Loomis testified that when he saw Ploetz's westbound car in the eastbound lane he had to slow down and pull onto the right shoulder to avoid a head-on collision with Ploetz. The district court found Ploetz guilty. Ploetz moved for a new trial, and the district court, cutting short his oral argument on the motion, took it under advisement and subsequently denied it. This appeal follows.

D E C I S I O N

Ploetz, an attorney appearing pro se, challenges his conviction by arguing that the district court erred by (1) failing to correctly apply the presumption of innocence; (2) not adequately considering his exhibits; (3) improperly crediting Officer Loomis's testimony; (4) excluding relevant evidence about his past driving and flying experience; and (5) denying his oral argument related to his motion for a new trial. We address each of Ploetz's concerns in turn.

1. Presumption of Innocence

Ploetz asserts that the district court improperly applied the presumption of innocence because it did not presume that his version of the events was true. He argues that "[i]f the presumption of innocence is to mean anything, it must mean that Appellant's version of the incident is to be taken as the true event until the prosecution proves it false beyond a reasonable doubt." The supreme court provides, "The presumption of innocence is a basic component of the fundamental right to a fair trial." *State v. Bowles*, 530 N.W.2d 521, 529 (Minn. 1995) (citing *Estelle v. Williams*, 425 U.S. 501, 503, 96 S. Ct. 1691, 1692 (1976)). Issues regarding a fair trial are constitutional questions, which this court reviews de novo. *State v. Dorsey*, 701 N.W.2d 238, 249 (Minn. 2005).

We conclude that Ploetz's interpretation of the presumption of innocence fails as a matter of law. He equates "innocence" with "defendant's story," such that the district court must presume true a defendant's story. But he offers no basis in law for doing so. The only case Ploetz cites regarding the presumption of innocence is *Coffin v. United*

States, 156 U.S. 432, 15 S. Ct. 394 (1895). In that case, the presumption of innocence is described as "a maxim," which to overturn, requires "legal evidence of guilt, carrying home a decree of conviction short only of absolute certainty." *Id.* at 456, 15 S. Ct. at 404. This definition is very similar to the definition applied in more recent cases that describe the presumption of innocence as a constitutional principle based on the requirement that the state must prove its case beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 361, 90 S. Ct. 1068, 1071 (1970); *State v. Smith*, 674 N.W.2d 398, 400 (Minn. 2004); *see also Black's Law Dictionary* 1306 (9th ed. 2009) (defining "presumption of innocence" as "[t]he fundamental principle that a person may not be convicted of a crime unless the government proves guilt beyond a reasonable doubt, without any burden placed on the accused to prove innocence").

We also conclude that the district court, applying the proper presumption of innocence, properly found Ploetz guilty. A careless-driving citation can be given to "[a]ny person who operates . . . any vehicle upon any street or highway carelessly or heedlessly . . . in a manner that endangers or is likely to endanger any property or any person." Minn. Stat. § 169.13, subd. 2 (2010). Officer Loomis testified that if he had not slowed down and moved to the shoulder, Ploetz's driving would have caused a head-on collision. This testimony, which the district court believed, overcomes the presumption of innocence and establishes beyond a reasonable doubt that Ploetz is guilty of careless driving.

2. Ploetz's Exhibits

Ploetz argues that the district court failed to consider his exhibits, asserting that the district court's statement that it considered all of the evidence "rings hollow as [the district court] does not note anything in regards to any exhibit." The district court admitted Ploetz's exhibits into evidence and stated that it considered *all* of the evidence when making its decision. There is no evidence that the district court did not consider Ploetz's exhibits. The district court is not required to comment on each exhibit in evidence.

3. Officer Loomis's Testimony

Ploetz next asserts that the district court erred by crediting Officer Loomis's testimony when it allegedly conflicted with his police report. Despite any differences, the district court is entitled to rely on Officer Loomis's in-court testimony. *See State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989) ("The weight and credibility of the testimony of individual witnesses is for the [trier of fact] to determine."). Moreover, we note that Ploetz's contention that the police report differed from Officer Loomis's testimony is overstated; the two accounts were nearly identical. Ploetz focuses on the exact location of Officer Loomis's squad car at various points—whether it was approaching or crossing specific landmarks. But notwithstanding that minor ambiguity, Officer Loomis's testimony that, upon seeing Ploetz approach, he moved to the shoulder of the eastbound lane to avoid a head-on collision was consistent in his report and at trial. And that is the testimony the district court believed.

4. Driving and Flying Experience

Ploetz contends that it was error for the district court to exclude on the basis of relevancy his testimony about his past driving and flying experience. The district court's evidentiary rulings rest within its discretion. *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003). A district court's evidentiary ruling will not be reversed unless an appellant establishes that it was an abuse of discretion and that the appellant was prejudiced by it. *Id.*

The general rule is that "[e]vidence which is not relevant is not admissible." Minn. R. Evid. 402. Relevant evidence "means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Minn. R. Evid. 401. Ploetz claims that his experience flying airplanes is relevant because it shows his "constant situational awareness in three dimensions." But as the district court noted, whether Ploetz has "constant situational awareness" when flying does not make it less probable that he carelessly drove a motor vehicle on August 6. The district court acted well within its discretion.

5. Oral Argument on New Trial Motion

Ploetz argues that the district court erred by not allowing him to orally argue his motion for a new trial. We review the district court's procedural rulings under an abuse-of-discretion standard. *Rice Park Props. v. Robins, Kaplan, Miller & Ciresi*, 532 N.W.2d 556, 556 (Minn. 1995).

We conclude that the district court did not abuse its discretion. First, Minn. R. Crim. P. 26.04, the rule governing motions for a new trial, does not provide the defendant a right to an oral argument. Second, the district court had good reason to deny Ploetz's oral argument. Ploetz acknowledged in his written submission that he planned to read his written submission verbatim. The supreme court has said the district court "has considerable discretion" in furthering the "interests of judicial administration and economy" when making procedural decisions. *Id.* Denying Ploetz an opportunity to orally recite his already submitted written argument was within the district court's discretion.

Affirmed.