STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1387

State of Minnesota,
Respondent,

vs.

Lawrence Anthony Wajda, Sr.,
Appellant.

Filed August 26, 2013
Affirmed
Halbrooks, Judge

Hennepin County District Court
File No. 27-CR-12-1379

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

Kenneth N. Potts, Kenneth N. Potts, P.A., Minnetonka, Minnesota (for respondent)

Lawrence Wajda, Sr., Minneapolis, Minnesota (pro se appellant)

Considered and decided by Larkin, Presiding Judge; Halbrooks, Judge; and Worke, Judge.

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

HALBROOKS, Judge

Pro se appellant challenges his petty misdemeanor conviction of speeding. Because the evidence is sufficient to support the conviction, we affirm.

FACTS

In November 2011, appellant Lawrence Anthony Wajda, Sr. was cited for speeding in violation of Minn. Stat. § 169.14, subd. 2 (2010). A guilty plea was entered after Wajda failed to timely pay the citation fine or appear to contest the citation. Wajda subsequently moved to withdraw his guilty plea; that motion was denied. Upon further motion, the district court agreed to reconsider the matter and to conduct a bench trial.

At trial, Officer Susan Schultz of the Orono Police Department testified that she used radar to determine that Wajda was driving 60 miles per hour (mph) in a 40-mph zone on Country Road 6 on November 12, 2011. Wajda testified that he was not speeding. The district court found Wajda guilty of speeding. This appeal follows.

D E C I S I O N

Wajda challenges the sufficiency of the evidence in support of his conviction of speeding. In reviewing a claim of insufficient evidence, we apply the same standard to a conviction obtained following a jury trial or a bench trial. *State v. Hughes*, 355 N.W.2d 500, 502 (Minn. App. 1984), *review denied* (Minn. Jan. 2, 1985). We review the record to determine whether the evidence, when viewed in the light most favorable to the verdict, is sufficient to allow the fact-finder to reach the verdict that it did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). In so doing, we assume that the fact-finder "believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). This is especially true when resolution of the matter depends mainly on conflicting testimony. *State v. Pieschke*, 295 N.W.2d 580, 584 (Minn. 1980). We will not disturb the verdict if the fact-finder, acting with due

regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that a defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

Driving in excess of posted speed limits is prima facie evidence that the speed is unlawful. Minn. Stat. § 169.14, subd. 2(a). Radar is an accepted method of proving speed. *See State v. Aanerud*, 374 N.W.2d 491, 492 (Minn. App. 1985) (holding that evidence was sufficient to sustain speeding conviction based on the officer's testimony as to radar readings); *State v. Dow*, 352 N.W.2d 125, 126 (Minn. App. 1984) (holding that radar results are reliable if the unit is properly tested and operated). In cases where the rate of speed is relevant, radar evidence is admissible to prove a vehicle's speed if the officer operating the radar is sufficiently trained, that officer testifies to the manner in which the radar was operated, the radar functioned with minimal interference from outside sources, and the radar was tested by an accurate and reliable method at the time of set up. Minn. Stat. § 169.14, subd. 10(a) (2010).

Wajda contends that the evidence here is insufficient because he testified that he was 100% certain that he was not speeding. Because of his degree of certainty, he contends that "there must have been outside interference that caused a wrong reading on the radar." But Officer Schultz testified that she verified that the radar unit was functioning properly by performing calibrations with the radar's tuning forks prior to going on her shift, and a document certifying the accuracy of the radar's tuning forks was introduced at trial. Officer Schultz testified that when the radar locked Wajda's vehicle at 60 mph the device received no interference, and no other vehicles were in sight. She

further testified as to her qualifications for operating the radar unit and was subject to extensive cross-examination by Wajda.

The district court, as it was entitled to do, credited Officer Schultz's testimony that she used the radar without malfunction or interference when she locked Wajda's vehicle at 60 mph. *See State v. Pedersen*, 382 N.W.2d 559, 560 (Minn. App. 1986) (holding that witness credibility is an issue for the fact-finder not the appellate courts); *see also State v. Watkins*, 650 N.W.2d 738, 741 (Minn. App. 2002) (deferring to credibility determinations on appellate review). That testimony is sufficient to establish that Wajda was driving in excess of the posted speed limit.

Without any legal citation, Wajda argues that he was improperly denied access to relevant documents from the Orono Police Department. But the city attorney provided Wajda with the certificate of radar calibration that was introduced at trial. *See* Minn. Stat. § 169.14, subd. 10(b) (2010) (requiring disclosure of radar-testing records upon demand by defendant). Wajda also objects to Officer Schultz's failure to bring "notes and records and logs" to trial. But because Wajda fails to provide the legal basis for his argument that this constitutes error, he has waived this issue. *See State v. Wembley*, 712 N.W.2d 783, 795 (Minn. App. 2006) (holding that a mere assertion of error without supportive argument or authority is waived unless prejudicial error is obvious on mere inspection), *aff'd*, 728 N.W.2d 243 (Minn. 2007); *see also State Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to reach issues not adequately briefed).

We conclude that the evidence introduced at trial is sufficient to find Wajda guilty of speeding in violation of Minn. Stat. § 169.14 (2010).

Affirmed.