

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA05-1158

NORTH CAROLINA COURT OF APPEALS

Filed: 4 April 2006

STATE OF NORTH CAROLINA

v.

Surry County  
Nos. 02 CRS 53545-46

JUNIOR DAVIS HIATT

Appeal by defendant from judgment entered 3 May 2005 by Judge William Z. Wood, Jr. in Superior Court, Surry County. Heard in the Court of Appeals 20 March 2006.

*Attorney General Roy Cooper, by Assistant Attorney General Jeffrey R. Edwards, for the State.*

*Brannon Strickland, PLLC, by Marlet M. Edwards, for defendant-appellant.*

McGEE, Judge.

Junior Davis Hiatt (defendant) was charged with driving while license revoked on 4 September 2002. Defendant was convicted in district court on 9 January 2003 and appealed to superior court. The case was tried on 3 May 2005.

The evidence presented at trial tended to show that: Officer Angela Meadows of the Mount Airy Police Department testified she was on patrol on 4 September 2002, when she received a call to come to the police department. When she arrived, she met with defendant, who had come to the police department to speak with the

officer who had arrested him the night before. However, the officer was not on duty. While talking with defendant, Officer Meadows was aware that his driver's license had been revoked. She asked defendant how he got to the police department, and he told her he drove. She asked him if he was aware that his license was revoked, and he said he was not. Officer Meadows told defendant to make arrangements to be picked up because he was not supposed to be driving. She also decided not to charge him with driving while license revoked.

Office Meadows testified she then left the police department to serve a warrant. As she was leaving, she saw defendant looking through a telephone book. She then called over the radio to the dispatcher, Kathy Hiatt, and asked her to let her know if defendant left. Five minutes later, Kathy Hiatt called Officer Meadows to let her know that defendant had left the police department and was operating a vehicle. Officer Meadows then issued two warrants for defendant's arrest for driving while license revoked.

Defendant denied driving a vehicle on 4 September 2004. Defendant testified that he was driven to the police department by Darrell Leftwich. He testified that his stepdaughter, Brandy Butcher, drove him home.

Defendant was convicted of one count of driving while license revoked for driving away from the police station. The jury found him not guilty of driving to the police station. Defendant was given a suspended sentenced of forty-five days imprisonment and was placed on supervised probation for forty-eight months. Defendant

appeals.

Defendant argues that there was insufficient evidence to sustain the conviction. Specifically, defendant contends that the weight of the evidence shows that he did not drive a vehicle away from the police station.

To survive a motion to dismiss, the State must present substantial evidence of each essential element of the charged offense. *State v. Cross*, 345 N.C. 713, 716-17, 483 S.E.2d 432, 434 (1997). "Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion." *Id.* at 717, 483 S.E.2d at 434 (quoting *State v. Olson*, 330 N.C. 557, 564, 411 S.E.2d 592, 595 (1992)). When reviewing the sufficiency of the evidence, "[t]he trial court must consider such evidence in the light most favorable to the State, giving the State the benefit of every reasonable inference to be drawn therefrom." *State v. Patterson*, 335 N.C. 437, 450, 439 S.E.2d 578, 585 (1994).

In the case before us, defendant was charged with driving while license revoked. The essential elements of driving while license revoked are: "(1) he operated a motor vehicle, (2) on a public highway, (3) while his operator's license was suspended or revoked, and (4) had knowledge of the suspension or revocation." *State v. Woody*, 102 N.C. App. 576, 578, 402 S.E.2d 848, 850 (1991) (citing *State v. Chester*, 30 N.C. App. 224, 226 S.E.2d 197 (1976)); see also N.C. Gen. Stat. § 20-28(a) (2005). Prior to trial, defendant stipulated that he knew that his license had been revoked, thus satisfying the third and fourth elements of the

offense. Kathy Hiatt testified that she watched defendant get in his vehicle, start the vehicle, back out of his parking space and turn right onto the street. She further testified that she saw nobody else in the vehicle. The first two elements of the offense were thereby satisfied.

Defendant presented evidence to the contrary, testifying that he did not drive the vehicle, and that he was driven home by his stepdaughter. Defendant's wife also testified that her daughter told her she had driven defendant home. However, upon a motion to dismiss, "[t]he trial court must . . . resolve any contradictions in the evidence in the State's favor. The trial court does not weigh the evidence, consider evidence unfavorable to the State, or determine any witness' credibility." *State v. Robinson*, 355 N.C. 320, 336, 561 S.E.2d 245, 256 (citations omitted), *cert. denied*, 537 U.S. 1006, 154 L. Ed. 2d 404 (2002). Thus, in determining defendant's motion to dismiss for insufficiency of the evidence, "defendant's evidence should be disregarded unless it is favorable to the State or does not conflict with the State's evidence." *State v. Scott*, 356 N.C. 591, 596, 573 S.E.2d 866, 869 (2002). Therefore, in the light most favorable to the State, a reasonable mind could conclude that defendant drove a vehicle while his license was revoked. *Cross*, 345 N.C. at 717, 483 S.E.2d at 434. Accordingly, we find no error.

No error.

Judges WYNN and HUNTER concur.

Report per Rule 30(e).