In The
Court of Appeals
Seventh District of Texas at Amarillo

No. 07-23-00255-CR

MARIO ALBERT ESPINOZA, JR, APPELLANT

V.

THE STATE OF TEXAS, APPELLEE

On Appeal from the 47th District Court
Randall County, Texas
Trial Court No. 32059A, Honorable Dee Johnson, Presiding

November 16, 2023

MEMORANDUM OPINION

Before QUINN, C.J., and PARKER and YARBROUGH, JJ.

Following a plea of not guilty, Appellant, Mario Albert Espinoza, Jr., was convicted by a jury of driving while intoxicated and evading arrest.[1] By a sole issue, he contends the evidence is legally insufficient to support his conviction. We affirm.

[1] TEX. PENAL CODE ANN. §§ 49.04(a); 38.04(a), (b)(2)(A).

BACKGROUND

One evening on a highway in Randall County, a trooper with the Texas Department of Public Safety (DPS) observed a vehicle being driven at excessive speeds traveling in the opposite direction. The trooper followed the vehicle, but despite activating his siren and lights, the vehicle did not stop. At some point during the chase, the vehicle drove down a dirt road, kicking up clouds of dust obscuring the trooper's view. After doubling back, the trooper noticed the vehicle's tire tracks on the side of the highway and followed them until he came upon a dilapidated barn. Inside, he found the vehicle abandoned and Appellant attempting to conceal himself on the side of the barn. When the trooper asked if anyone else was there, Appellant answered "no, sir." When he asked him why he had been speeding, Appellant admitted: "I messed up. I was hauling a** and you were pulling me over."

Appellant was charged with DWI and evading arrest, and a jury returned a guilty verdict on both counts. Due to his prior convictions for other offenses, the punishment was enhanced, and the jury sentenced Appellant to forty years' imprisonment to be served concurrently.[2] This appeal followed.

STANDARD OF REVIEW

The only standard a reviewing court should apply in determining whether the evidence is sufficient to support each element of a criminal offense the State is required to prove beyond a reasonable doubt is the standard set forth in *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979). *See Adames v. State*, 353 S.W.3d

[2] §§ 49.09(b)(2); 38.04(b)(2)(A).

854, 859 (Tex. Crim. App. 2011); s*ee also Alfaro-Jimenez v. State*, 577 S.W.3d 240, 243–44 (Tex. Crim. App. 2019). We consider all the evidence in the light most favorable to the verdict and determine whether, based on that evidence and reasonable inferences to be drawn therefrom, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Dobbs v. State*, 434 S.W.3d 166, 170 (Tex. Crim. App. 2014) (citing *Jackson*, 443 U.S. at 318–19).

ANALYSIS

Appellant's sole issue is the sufficiency of the evidence to uphold his convictions for DWI and evading arrest. Particularly, he contends because the trooper did not see him inside the vehicle at any time during the encounter, there was insufficient evidence for the jury to find beyond a reasonable doubt he was driving the vehicle at the time of his arrest. He also contends because the trooper admitted he improperly administered the field test for intoxication, there was insufficient evidence to show he was impaired while operating the vehicle.

Regarding the DWI, the State was required to prove Appellant was intoxicated while driving a motor vehicle in a public place. § 49.04(a); *Lehnert v. State*, No. 07-18-00122-CR, 2020 Tex. App. LEXIS 658, at *4 (Tex. App.—Amarillo January 23, 2020, no pet.) (mem. op., not designated for publication). The offense may be supported by circumstantial evidence if there is a temporal link between an accused's intoxication and his driving. *Kuciemba v. State*, 310 S.W.3d 460, 462 (Tex. Crim. App. 2010).

Evading arrest is established if the State proves a person intentionally fled from a person whom he knew was a peace officer trying to lawfully arrest or detain him and he

used a motor vehicle while in flight. § 38.04(a), (b)(2)(A); *Archuleta v. State*, No. 07-17-00371-CR, 2019 Tex. App. LEXIS 3815, at *5 (Tex. App.—Amarillo May 9, 2019, pet. ref'd) (mem. op., not designated for publication).

The jury may make reasonable inferences from circumstantial evidence. *Jenkins v. State*, 493 S.W.3d 583, 599 (Tex. Crim. App. 2016). Here, the trooper found the vehicle and Appellant in a dilapidated barn after giving chase. Appellant told the trooper no one else was in the vehicle at the time of his arrest, and no other persons were observed at the scene. He admitted he was "hauling a**" and he "messed up." The vehicle was also registered in his name. The jury could reasonably infer from this evidence Appellant was driving the vehicle at the time of the chase. In addition, the trooper performed a breathalyzer test at the jail, which showed Appellant had a blood alcohol level of 0.144, nearly double the legal limit. Testimony from the DPS technical supervisor for Randall County confirmed the breathalyzer machine was working properly on the day of Appellant's arrest, and the test was conducted properly.

There was sufficient evidence for the jury to find beyond a reasonable doubt Appellant committed the offenses of DWI and evading arrest. We overrule his sole issue.

CONCLUSION

The trial court's judgment is affirmed.

Alex Yarbrough
Justice

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