

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 65466-7-1
)	
Respondent,)	DIVISION ONE
)	
v.)	UNPUBLISHED OPINION
)	
DUANE ALLEN BATES AKA)	
DUANE ALAN BATES,)	
)	
Appellant.)	FILED: September 19, 2011

Grosse, J. — Driving “in a reckless manner,” for purposes of the crime of attempting to elude a pursuing police vehicle, means driving in a rash or heedless manner, indifferent to the consequences. Here, the evidence shows that Duane Bates drove a stolen van in heavy rain and heavy traffic in excess of the speed limit, ran a red light and a stop sign at two intersections, drove into an apartment complex with children present, and jumped out of the van while it was still in motion. From this evidence, a rational juror could find that Bates drove in a reckless manner. Accordingly, we affirm his conviction of attempting to elude a pursuing police vehicle.

FACTS

On May 6, 2009, at approximately 3:00 p.m., Kent Police Officer Tami Honda was on patrol and saw a van with a broken passenger-side window traveling on James Street, about to turn onto Central Avenue. Officer Honda noticed that there were glass shards in the window frame and that the driver of the van would not look at her. It was raining hard that day, but the broken

window was not covered up. Officer Honda got behind the van, ran the license number, and discovered that the van had recently been reported as stolen.

Officer Honda turned on her patrol car's overhead lights and "chirped" the siren to get the driver's attention. The driver of the van, who was later identified as Duane Bates, ignored the siren and lights and kept driving. When Bates came to the intersection of 84th Avenue South and South 228th Street, he veered into the adjacent lane to get around a car that was stopped at a light, ran through the red light, and turned onto South 228th Street. Traffic was heavy and, after he turned onto South 228th Street, Bates was driving 35 to 40 m.p.h. in a 25 m.p.h. zone.

Bates, still traveling about 40 m.p.h. in a 25 m.p.h. zone, approached the intersection of 88th Avenue South and South 228th Street. He veered into the opposite lane, ran through a stop sign without stopping, and continued on South 228th Street. Officer Honda saw a group of six or more children getting off a bus and standing on the other side of South 228th Street as she pursued Bates down the street. By this time, Officer Honda had her siren going continuously, but Bates made no effort to pull over.

Bates drove into an apartment complex located at the end of South 228th Street. Officer Honda saw children walking around the apartment complex. Once in the apartment complex, Bates slowed to about 20 m.p.h., opened the door of the van, jumped out, and walked into a swampy area. The driverless van ended up running into a wall.

The State charged Bates with possession of a stolen vehicle and attempting to elude a pursuing police vehicle. A jury found him guilty of both counts. This appeal involves only his conviction of attempting to elude a pursuing police vehicle.

ANALYSIS

The statute under which Bates was charged provides:

Any driver of a motor vehicle who willfully fails or refuses to immediately bring his or her vehicle to a stop and who drives his or her vehicle in a reckless manner while attempting to elude a pursuing police vehicle, after being given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a class C felony. The signal given by the police officer may be by hand, voice, emergency light, or siren. The officer giving such a signal shall be in uniform and the vehicle shall be equipped with lights and sirens.^[1]

Bates argues that the evidence is insufficient to support his conviction of attempting to elude a pursuing police vehicle under this statute because the State failed to prove beyond a reasonable doubt that he drove in a reckless manner. We disagree.

The test for determining whether the evidence is sufficient to support a defendant's conviction is whether, "after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt."² In a challenge to the sufficiency of the evidence in a criminal case, we draw all reasonable inferences from the evidence in favor of the State and interpret them most strongly against the defendant.³ "A claim of

¹ RCW 46.61.024(1).

² State v. Kintz, 169 Wn.2d 537, 551, 238 P.3d 470 (2010).

³ Kintz, 169 Wn.2d at 551.

insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom."⁴

"[R]eckless manner," as that term is used in RCW 46.61.024(1), means "driving in a rash or heedless manner, indifferent to the consequences."⁵ Excessive speed alone does not constitute driving in a reckless manner.⁶

From the evidence the State presented, any rational juror could find that Bates drove in a rash or heedless manner, indifferent to the consequences. The evidence showed that it was raining hard and traffic was heavy when Officer Honda was pursuing Bates. Bates drove 10 to 15 m.p.h. over the speed limit, veered around a car stopped at a red light at an intersection, ran the red light, and drove through the intersection. At another intersection, Bates, still driving in excess of the speed limit, veered into the opposite lane of traffic to get around a car stopped at a stop sign, failed to stop at the stop sign, and drove through the intersection. Children were nearby, albeit across the street. Children were also in the vicinity when Bates drove into the apartment complex and jumped out of the van while it was still in motion. A rational juror could find, from this evidence, that Bates drove in a rash and heedless manner, indifferent to the consequences. Accordingly, Bates' challenge to the sufficiency of the evidence fails.⁷

⁴ State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992).

⁵ State v. Ridgley, 141 Wn. App. 771, 781, 174 P.3d 105 (2007) (quoting State v. Roggenkamp, 153 Wn.2d 614, 621-22, 106 P.3d 196 (2005)).

⁶ State v. Farr-Lenzini, 93 Wn. App. 453, 469-70, 970 P.2d 313 (1999).

⁷ We reject Bates' argument that the evidence was insufficient because there was no evidence that he struck another vehicle, cut off another vehicle, or required a vehicle or pedestrian to take evasive action. The absence of this

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Affirmed.

Grosse, J

WE CONCUR:

Appelwick, J

Leach, a.c.j.

evidence does not render the evidence insufficient to support Bates' conviction of attempting to elude a pursuing police vehicle.