IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. RICHARD DEWAYNE DICKEY, Appellant.	No. 40783-3-II UNPUBLISHED OPINION

Quinn-Brintnall, J. — Richard Dickey appeals his conviction for attempting to elude a pursuing police vehicle. He argues that the State failed to present sufficient evidence that he drove his vehicle in a reckless manner, which is an element of the crime. In a statement of additional grounds (SAG),[1] Dickey argues that the police officer did not have probable cause to initiate the traffic stop that led to his conviction. Concluding that the State presented sufficient evidence and that Dickey's SAG issue fails, we affirm.[2]

The evidence of a crime is sufficient when, 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.

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[1] RAP 10.10.

[2] A commissioner of this court initially considered Dickey's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992) (citing *State v. Green*, 94 Wn.2d 216, 220-22, 616 P.2d 628 (1980)). All reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. *Salinas*, 119 Wn.2d at 201 (citing *State v. Partin*, 88 Wn.2d 899, 906-07, 567 P.2d 1136 (1977)).

The State charged Dickey with attempting to elude a pursuing police vehicle.[3] One of the elements of that crime, and the only element at issue on appeal, is that the driver who fails to stop for a pursuing police vehicle "drives his or her vehicle in a reckless manner." RCW 46.61.024(1). Driving in a "reckless manner" means "'driving in a rash or heedless manner, indifferent to the consequences.'" *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)).

Taken in the light most favorable to it, the State presented the following evidence. On April 9, 2009, while on routine patrol, Pierce County Sheriff's Deputy Rodger Leach ran a computer check of the license plate of a brown Subaru. He learned that the driver's license for the registered owner of the Subaru had been suspended. The physical description of the registered owner was consistent with the person driving the Subaru, so Leach initiated a traffic stop by turning on his emergency lights. The Subaru did not stop and instead made a loop through a parking lot. Leach turned on his siren, but the Subaru still did not stop, so Leach notified the dispatcher of the vehicle's noncompliance with the signals to stop. The Subaru proceeded on Military Road at about 65 m.p.h., turned onto Pacific Avenue, and then turned into a retail complex. The Subaru pulled into an alley behind some of the stores, came to an abrupt

[3] The State also charged him with first degree assault with a deadly weapon, but the jury acquitted him of that charge.

stop, continued another 100 yards, and then stopped again.

Deputy Leach positioned his patrol car for a pit maneuver[4] and started to get out of the car. While he was getting out of the patrol car, the Subaru started backing up "relatively quickly." 1 Report of Proceedings at 28. The Subaru hit the driver's door of the patrol car, pinning Leach between the door and the frame of the car. Deputy Jeff Reigle, who had responded to Leach's report, saw the Subaru accelerate backward and pin Leach between the door and the frame. After freeing himself from the car, Leach drew his weapon and ordered the driver to show his hands. The driver did not do so, so Leach fired five rounds into the Subaru. The driver, later identified as Dickey, then threw himself out of the car and onto the ground.

Dickey argues that the only evidence of his driving in a "reckless manner" was his driving at 65 m.p.h. on Military Road and Pacific Avenue. And excessive speed alone does not constitute driving in a "reckless manner." *State v. Farr-Lenzini*, 93 Wn. App. 453, 470, 970 P.2d 313 (1999). Thus, he contends that the evidence against him is insufficient. But in addition to driving at a high rate of speed, once he turned into the alley, he accelerated backward into Deputy Leach's car door, pinning the deputy between the door and the car frame. This action, witnessed by Deputy Reigle, was sufficient alone for the jury to find that Dickey had driven the Subaru in a "reckless manner" and so was sufficient for the jury to find him guilty of attempting to elude a pursuing police vehicle.

In his SAG, Dickey argues that Deputy Leach did not have probable cause to initiate the traffic stop because he does not resemble the Subaru's registered owner. But this issue was not

[4] According to Deputy Leach, a "pit maneuver" is a means of stopping a fleeing vehicle with a patrol car by turning the front bumper of the patrol car into the rear quarter of the fleeing vehicle, which causes the fleeing vehicle to spin.

raised at trial and cannot be raised for the first time on appeal.

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

We concur:

ARMSTRONG, P.J.

JOHANSON, J.