Circuit Court for Anne Arundel County
Case No.: C-02-CR-21-000199

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 915

September Term, 2021

BERNELI CASTRO CANDELARIO

v.

STATE OF MARYLAND

Nazarian,
Leahy,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),
JJ.

PER CURIAM

Filed: April 5, 2022

Following a bench trial in the Circuit Court for Anne Arundel County, the court found Berneli Castro Candelario, appellant, guilty of driving a vehicle while impaired by alcohol ("DWI"), failure to display a license, and driving without a license.[1] The court sentenced appellant to sixty days imprisonment, all suspended, for DWI; to sixty days consecutive, all suspended, for driving without a license; and to eighteen months of supervised probation.

Appellant noted an appeal. He claims that the evidence was legally insufficient to support his convictions. We disagree and shall affirm.

BACKGROUND

Upon responding to a motor vehicle crash, the police found appellant sitting in the driver's seat of his Cadillac Escalade which was sitting sideways in the middle of a residential road about a half a block from his home. The roadway contained debris near where the Escalade had apparently struck and damaged a parked Chevrolet Silverado. The police officer who approached appellant's Escalade said appellant's speech was slow and slurred, and that appellant had bloodshot glassy eyes and smelled strongly of alcohol. The police officer testified that appellant said "You got me. I'm drunk." After appellant was unable to complete the field sobriety tests, he refused a breath test.

In delivering its verdict, the court made the following comments:

[1] The court granted a motion for judgment of acquittal on charges of reckless driving, failure to drive a vehicle on the right side of the roadway, and failure to control a vehicle's speed to avoid collision. In addition, the court found appellant not guilty of negligent driving and failure to display a registration card.

Okay. So, this is an accident that – this is a collision – this is a scene that took place on September 28, 2019, at around 2 a.m. Officer arrives upon the scene. He sees an accident. He sees the remnants of an accidents [sic] between an Escalade, which was owned by the . . . Defendant and a white Chevy Silverado. There is debris in the roadway and the – there is damage to the Silverado. The Defendant gets out of the car. Appears to be under the influence – or appears to be – bloodshot eyes, strong odor of alcoholic beverage, which continued even when he got out of the car, and speech was slurred.

He also stated, "You got me. I'm drunk." I also – and I do believe the officer when he says he was found in the driver's seat. I don't think that that – in order for him to have – I don't think this is, "You don't remember." I think this is, he would be lying through his teeth if he was outside the vehicle at the time.

But I would state, even if he was outside the vehicle, said, "You got me. You're drunk." The car is in his hand, and he does not contradict that he was the driver of the vehicle. And "You got me. I'm drunk." I've gotten drunk a lot of times in my life, but not behind a car.

So, I think that it is contemporaneous with him being in the car that, "You've got me. I'm drunk." And his admission that he had – and I remember driving, I used to think that driving had thing [sic] where if you had two drinks, that you were under the influence of alcohol.

I remember having cases where I appealed them up to Circuit Court because he would say, "Two pints. That's enough, Counsel." And I'd be, like, "No, that's not enough. Two pints, it's close but it's not enough." But a Corona, a Modelo, and shots of tequila, in combination with the rest of the facts in this case are enough to assume that the Defendant – is enough to push it over reasonable doubt. Not necessarily for driving on a – under the influence, but clearly for driving while impaired, which is just – combined with an accident, which the Defendant had, which is unexplained as well, make the Court comfortable that the Defendant is guilty beyond a reasonable doubt to driving while impaired.

As far as the negligent driving is concerned, [defense counsel], you missed that one. But I think it is the same argument, and I think he is going to be found not guilty or a judgement of an acquittal on that. I had already granted the judgement of – and we will call it not guilty, Madam Clerk, just because I didn't get to it.

> Reckless was already JOA-ed. Right side of drive was JOA-ed. Failure to control speed was JOA-ed. We don't know how the accident happened. We just know he appeared – that he was in an accident. Driving license on demand. I will find him guilty of that.
>
> There was no evidence from the State as to whether he gave him the registration card. So, the Court will find him not guilty of registration, and driving without a license I find him guilty as well.

DISCUSSION

As noted above, appellant contends that the evidence was legally insufficient to support any of his convictions. According to appellant, the evidence was insufficient to show that appellant was "driving" the crashed Escalade within its statutory definition. Section 21-902(b)(1) of the Transportation Article of the Maryland Code ("TA"), provides that "[a] person may not drive or attempt to drive any vehicle while impaired by alcohol." "Drive" is statutorily defined in TA § 11-114 as "to drive, operate, move, or be in actual physical control of a vehicle, including the exercise of control over or the steering of a vehicle being towed by a motor vehicle."

According to appellant, the State failed, as it is required to do when a person is found in a stationary vehicle, to adduce sufficient evidence that appellant either "drove" the vehicle prior to being apprehended or was in "actual physical control" of the vehicle at the time of his apprehension. *Atkinson v. State*, 331 Md. 199 (1993).

In reviewing the sufficiency of the evidence presented at trial, we consider "the evidence in the light most favorable to the prosecution," *Moye v. State*, 369 Md. 2, 12 (2002), and determine whether "'any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *Taylor v. State*, 346 Md. 452, 457

(1997) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). In doing so, we defer to the fact-finder's evaluations of witness credibility, resolution of evidentiary conflicts, and discretionary weighing of the evidence, by crediting any inferences the jury reasonably could have drawn. *Grimm v. State*, 447 Md. 482, 495 (2016).

We conclude, viewing the evidence in the light most favorable to the State, a rational fact-finder could draw the inference that appellant drove or was in actual physical control of the Escalade while impaired by alcohol. The responding police officer's observation of appellant sitting in the driver's seat of the crashed Escalade in the middle of the road coupled with appellant's slurred speech, odor of alcohol, and admission that "You got me[,] I'm drunk[,]" constituted powerful circumstantial evidence that appellant had driven or was in actual physical control of the Escalade.

Regarding appellant's contention that the evidence was insufficient to support his convictions for failure to display a license, and driving without a license, appellant posits that it was possible that he had walked to the scene of the accident, which occurred a half block away from his house, regardless of who had been driving the Escalade. Therefore, according to appellant, the court had to rely on conjecture to determine "whether Appellant had driven the Escalade to his home after drinking alcohol, or had been drinking alcohol at home and came outside to wait for the police after he became aware that his vehicle was involved in an accident."

In our view, the inference that appellant was the person who crashed the Escalade while impaired by alcohol, or who was in actual physical control of it afterwards, was far stronger than the inference that some unknown person at some unknown time crashed it,

and appellant walked over to investigate as he suggests. Moreover, that the evidence may have also supported some other inference is of no moment. "Choosing between competing inferences is classic grist for the [fact-finder] mill." *Cerrato-Molina v. State*, 223 Md. App. 329, 337 (2015).

Consequently, we affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.