

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL JOSEPH STRASSER,

Defendant-Appellant.

UNPUBLISHED

March 2, 2006

No. 255582

Midland Circuit Court

LC No. 03-001613-FH

Before: Cooper, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of fourth-degree fleeing and eluding, MCL 257.602a(2). Defendant was sentenced, as a second habitual offender, MCL 769.10, to serve 24 months' probation, with nine months to be served in the county jail. Defendant appeals as of right, and we affirm. This case is being decided without oral argument under MCR 7.214(E).

Defendant's only argument on appeal is that insufficient evidence supported his conviction. In reviewing the sufficiency of the evidence, this Court must consider the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999). "[A]ll conflicts in the evidence must be resolved in favor of the prosecution." *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004).

The statute proscribing fourth-degree fleeing and eluding, MCL 257.602a, provides in relevant part as follows:

(1) A driver of a motor vehicle who is given by hand, voice, emergency light, or siren a visual or audible signal by a police or conservation officer, acting in the lawful performance of his or her duty, directing the driver to bring his or her motor vehicle to a stop shall not willfully fail to obey that direction by increasing the speed of the motor vehicle, extinguishing the lights of the motor vehicle, or otherwise attempting to flee or elude the officer. This subsection does not apply unless the police or conservation officer giving the

signal is in uniform and the officer's vehicle is identified as an official police or department of natural resources vehicle.

(2) Except as provided in subsection (3), (4), or (5), an individual who violates subsection (1) is guilty of fourth-degree fleeing and eluding, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$500.00, or both.

Neither party asserts that the circumstances set forth in MCL 257.602a(3), (4), or (5) apply in this case.

At trial, Midland County Sheriff's Department Lieutenant Gregory James Hall testified that in the early morning hours of March 5, 2003, he was informed that a snowmobile was traveling illegally on a recreational path and toward his location. Hall, in full uniform, then maneuvered his fully marked squad car into the middle of an intersection through which the snowmobile was likely to pass. Before long, Hall observed a lone headlight as the snowmobile approached the intersection. Hall activated all of his vehicle's headlights, front and rear strobe lights, and his overhead flashers, and waited for the oncoming snowmobile. Seconds later, the snowmobile passed through the intersection, a 55 mile per hour speed zone, at 64 miles per hour and within feet of the squad car.

When the snowmobile passed, the driver neither sped up nor slowed down, and Hall noticed that the snowmobile had no rear-view mirror, that the driver wore a full-face helmet, and that a plume of snow emerged from the rear of the snowmobile. Hall turned his squad car around and followed the snowmobile for about three-quarters of a mile with the emergency lights still activated. Unable to keep up with the snowmobile on the snow-covered road, Hall soon lost sight of it, but Hall and another officer followed the unbroken track left by the snowmobile all the way to a private residence, where they found a still-warm snowmobile with fresh footprints in the snow that led toward the house.

When no one replied to Hall's knocks on the door, Hall started the snowmobile and drove it to the roadside so that it could be impounded. At that point, defendant came out of the house in a very agitated state and accused the officers of trying to steal his snowmobile. Hall informed defendant why the officers were there, and defendant initially denied that he had been riding the snowmobile at all. Defendant then conceded that he had been riding on state land, but that he had been home for over an hour. Hall testified that still later, defendant acknowledged that he had been riding along the route that Hall and the other officer had followed. According to Hall, defendant also eventually stated that "he did it" and that he had seen Hall's squad car. Subsequently, however, defendant recanted these last two admissions.

Defendant argues that the prosecution failed to prove beyond a reasonable doubt that he knew Hall had ordered him to stop, and that he refused to obey Hall's order. The evidence shows that defendant passed within a few feet of Hall, who wore his full uniform and sat in his fully marked squad car with all of its lights activated. When Hall eventually made contact with defendant, defendant offered varying accounts of his recent snowmobile riding. Defendant first stated that he had not been driving his snowmobile at all, then that he had been riding it much earlier that morning. Eventually, defendant admitted that "he did it" and that he had seen Hall's

vehicle, although he ultimately recanted his admissions. Deferring to the jury's superior role to determine witness credibility and resolving all evidentiary conflicts in the prosecution's favor, we find that this evidence supports a rational trier of fact's finding beyond a reasonable doubt that defendant must have seen the lights of Hall's squad car and ignored Hall's signals to stop.¹ *People v Nowack*, 462 Mich 392, 399-400; 614 NW2d 78 (2000).

While the evidence supports defendant's assertion that he did not speed up or turn off his lights as he passed Hall, defendant undisputedly did continue to drive away from Hall's squad car, which was unable to pursue defendant in the weather conditions. Regardless of where defendant headed, the evidence that he drove away from Hall's vehicle at more than sixty miles per hour supports a reasonable conclusion that defendant was attempting to flee from Hall.

Affirmed.

/s/ Jessica R. Cooper

/s/ Kathleen Jansen

/s/ Jane E. Markey

¹ Defendant's supposition that an unseen vehicle might have been in the ditch next to Hall's squad car has no bearing on defendant's ability to see the many flashing lights on the squad car. Likewise, whether defendant could have seen Hall pursuing him does not undermine the reasonable conclusion that defendant must have seen Hall as he came toward Hall's flashing squad car parked in the middle of the intersection.