

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

JANUARY 1997 SESSION

STATE OF TENNESSEE,)
) C.C.A. No. 02C01-9603-CR-00077
 Appellee,)
) Shelby County
 V.)
) Honorable Joseph Dailey, Judge
)
 WILLIE LEE BOBO,) (DUI; Carrying a Pistol)
)
 Appellant.)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED

PAUL G. SUMMERS,
Judge

OPINION

The appellant, Willie Lee Bobo, was convicted by a jury of DUI and carrying a pistol. He made a motion for new trial. The trial court denied the motion. The sole issue raised on appeal is whether the trial court correctly exercised its role as thirteenth juror in sustaining his conviction. We affirm the judgment of the trial court.

The appellant argues that the trial judge did not consider any of the defense's favorable evidence when he denied the motion for new trial. He argues that the trial judge absolved himself of his responsibility to act as thirteenth juror by failing to consider all the evidence presented at trial. Therefore, he asserts that he should be granted a new trial.

The appellant is correct in his assertion that a new trial may be granted on appeal in circumstances in which the trial court absolved itself of its responsibility to consider the evidence as a thirteenth juror. State v. Burlison, 868 S.W.2d 713, 719 (Tenn. Crim. App. 1993) However, once the trial court approves the verdict as the thirteenth juror and imposes judgment, the review of the evidence on appeal is quite limited, requiring the accrediting of the testimony of the witnesses for the state and the resolution of evidentiary conflicts in favor of the state. State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973).

The record reflects that the trial court considered the evidence in its role of the thirteenth juror and denied the appellant's request for an acquittal or new trial. The trial judge specifically stated that "[t]here was... an abundance of proof to suggest that Mr. Bobo was highly intoxicated, was highly impaired, was armed with a loaded pistol, and that the jury's verdict was fully justified and supported by the evidence in the case." The appellant's contention is without merit.

AFFIRMED.

PAUL G. SUMMERS, Judge

CONCUR:

DAVID G. HAYES, Judge

THOMAS T. WOODALL, Judge