

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

MAY SESSION, 1999

FILED
June 17, 1999
Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,)
)
Appellee,)
)
VS.)
)
ROBERT DOUGLAS TARNOSKY,)
)
Appellant.)

C.C.A. NO. 01C01-9812-CC-00504

RUTHERFORD COUNTY

HON. JAMES K. CLAYTON
JUDGE

(Direct Appeal - D.U.I.)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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ORDER FILED _____

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

ORDER

The appellant, Robert Douglas Tarnosky, was convicted after a bench trial in the Rutherford County Circuit Court of one (1) count of driving under the influence of an intoxicant. See Tenn. Code Ann. § 55-10-401(a)(1). He also pled guilty to one (1) count of driving on a suspended license. On appeal, he claims that the evidence was insufficient to sustain the trial court's finding of guilt beyond a reasonable doubt. After a thorough review of the record before this Court, we affirm the trial court's judgment pursuant to Rule 20 of the Tennessee Court of Criminal Appeals.

When an accused challenges the sufficiency of the evidence, this Court must review the record to determine if the evidence adduced during the trial was sufficient "to support the findings by the trier of fact of guilt beyond a reasonable doubt." Tenn. R. App. P. 13(e). This Court is required to afford the state the strongest legitimate view of the evidence contained in the record as well as all reasonable and legitimate inferences which may be drawn from the evidence. State v. Tuttle, 914 S.W.2d 926, 932 (Tenn. Crim. App. 1995).

In an agreed Statement of Facts,¹ the parties stipulated that a Murfreesboro police officer observed the appellant driving erratically for a period of time before stopping the appellant's vehicle. When the officer asked the appellant to step out of his vehicle, the appellant was unsteady on his feet and smelled of alcohol. The appellant unsuccessfully performed several field sobriety tests and admitted that he had been drinking. Furthermore, a videotape which depicted the traffic stop and the sobriety tests was played for the trial court.

¹ Pursuant to Tenn. R. App. P. 24(c), the appellant submitted a "Statement of Facts" in lieu of the trial transcript.

Testifying on his own behalf, the appellant claimed that he had ingested medications which affected his equilibrium.

In a bench trial, the verdict of the trial judge is entitled to the same weight on appeal as that of a jury verdict. State v. Hatchett, 560 S.W.2d 627, 630 (Tenn. 1978); State v. Frahm, 737 S.W.2d 799, 800 (Tenn. Crim. App. 1987). We conclude that the evidence is sufficient to sustain the trial court's finding of guilt for driving under the influence of an intoxicant. Accordingly, we affirm the trial court's judgment pursuant to Rule 20, Tennessee Court of Criminal Appeals. Appellant may remain on bond pending appeal with a twenty-five percent increase. Costs of this appeal will be paid by the State of Tennessee as it appears that the appellant is indigent.

JERRY L. SMITH, JUDGE

CONCUR:

DAVID G. HAYES, JUDGE

NORMA MCGEE OGLE, JUDGE