IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
April 11, 2023 Session

STATE OF TENNESSEE v. RANDY O. REYNOLDS

Appeal from the Circuit Court for Dickson County
No. 2019-CR-506 David D. Wolfe, Judge

No. M2022-00480-CCA-R3-CD

Defendant, Randy O. Reynolds, stands convicted by a Dickson County jury of aggravated vehicular homicide (Count 1), vehicular homicide (Count 2), reckless homicide (Count 3), vehicular assault by driving under the influence (Count 4), simple possession of a schedule II controlled substance (Count 5), leaving the scene of an accident (Count 6), evading arrest (Count 7), and driving on a revoked license (Count 8). On appeal, Defendant argues (1) the trial court erred in denying his motion to suppress the results of his blood alcohol test; (2) the trial court erred in allowing the State to present expert testimony regarding the effects of intoxication; and (3) the evidence produced at trial was insufficient to support his all of his felony convictions, and his misdemeanor evading arrest conviction. After a thorough review of the record and applicable law, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed

MATTHEW J. WILSON, J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER and CAMILLE R. MCMULLEN, JJ., joined.

Timothy Wills, Nashville, Tennessee, for the Defendant, Randy O. Reynolds.

Jonathan Skrmetti, Attorney General and Reporter; Garrett D. Ward, Assistant Attorney General; W. Ray Crouch, Jr., District Attorney General; and Jack Arnold, Assistant District Attorney General, for the Appellee, State of Tennessee.

OPINION

I. Factual and Procedural Background

A. Procedural Summary

This case arises from an October 20, 2019 motor vehicle crash in which Defendant

crossed the center line of a highway, struck a car driven by the victim, Irma Ortiz, and killed her. Ms. Ortiz's passenger, Paul "C.J." Pewitt, was injured. Defendant left the scene on foot and was located about a half-mile from the crash site approximately two hours later. After Defendant's blood was collected and tested, it showed the presence of methamphetamine and diazepam. The Dickson County Grand Jury returned an eight-count indictment charging Defendant with aggravated vehicular homicide, vehicular homicide by intoxication, vehicular homicide by reckless conduct, vehicular assault by driving under the influence, possession of methamphetamine with intent to sell, leaving the scene of an accident involving death, evading arrest, and driving on a revoked license.

B. Suppression Hearing Testimony

Before trial, Defendant filed a motion to suppress the warrantless collection of his blood after the crash. At the suppression hearing, Tennessee Highway Patrol (THP) Trooper Patrick Binkley testified that at "about 3:39 [p.m.]" on Sunday, October 20, 2019, he was dispatched to the crash site on Highway 70 in Dickson County near Montgomery Bell State Park. When he arrived, Trooper Binkley saw a Ford F-250 pickup truck upside down in a ditch and a smaller Nissan car that "appear[ed] to have the top ripped off." Passersby who had stopped at the scene told Trooper Binkley the F-250 had nobody inside, so he went to the Nissan. He saw the driver was dead and the front seat passenger was injured. After other law enforcement arrived to secure the scene, Trooper Binkley and some of the other officers began looking for the Ford's driver.

Trooper Binkley testified that about forty-five minutes to an hour after the accident, officers arrived at the home of the truck's registered owner, James Vandivort, who told the officers that he had "loaned" his vehicle to Defendant. About one hour after the meeting with Mr. Vandivort, Chief Ranger Shane Petty of the Tennessee State Parks notified Trooper Binkley that he (Petty) and his K-9 unit had found Defendant "several hundred yards away from the accident scene behind a house and on property located adjacent to Montgomery Bell Park." Trooper Binkley then went to that location.

When Trooper Binkley first encountered Defendant—two to three hours after the trooper first arrived at the crash site—the trooper found Defendant to be "[m]ore or less incoherent, non-responsive. On the nod is a term that's thrown around, meaning basically moments of coherence, able to speak and comprehend, and then the next moment incoherent or unconscious perhaps, typically consistent with drug use." Although neither Defendant nor the Ford truck smelled of alcoholic beverages and no open alcoholic beverage containers were found in the truck, Trooper Binkley believed Defendant "was under the influence of some type of depressant or something that would basically suppress the central nervous system to where he couldn't retain consciousness." Accordingly, Trooper Binkley decided to obtain a sample of Defendant's blood. Trooper Binkley

attempted to gain Defendant's consent to have the blood drawn voluntarily, but Defendant's condition rendered him unable to give consent. Trooper Binkley did not obtain a search warrant for Defendant's blood. The trooper explained his reasons for foregoing a warrant in this exchange with the prosecutor:

> Prosecutor: How long would it have taken you if you started the warrant process at 6:00 to get a warrant made out and signed by a Magistrate?
>
> Trooper Binkley: It would have added at least an hour if I were able to do it locally because I would not only have to draft the warrant but I would also have to drive to Charlotte to meet with the Magistrate. So we are honestly talking about—I mean we are talking about an hour and a half to two hours traveling there, issuing the search warrant, and traveling back to the scene assuming they would still be there.

The trooper explained the process would have taken even longer had Defendant been transported to a hospital in Nashville—as persons with more serious injuries often were—because the trooper would have to draft a second warrant for a Davidson County judge or magistrate to sign. Trooper Binkley acknowledged he believed exigent circumstances existed for him to bypass the warrant in obtaining Defendant's blood based on these difficulties and the amount of time that had passed since the crash (he guessed somewhere between three and four hours). In his experience, Trooper Binkley understood that intoxicating substances would dissipate from a person's blood over time. But the trooper also acknowledged that other factors, such as a head injury, could have led to Defendant's incoherent state.

Tennessee Bureau of Investigation (TBI) Special Agent April Bramlage conducted the toxicology analysis in this case. She testified that a person metabolized substances in the blood over time, stating that if after taking an intoxicating substance the person "had not taken any drug in between in a four hour period . . . we can expect levels to be going down." She also stated that certain drugs could be eliminated from the body quickly, especially when taken in small doses. When asked whether the saline administered as part of blood transfusions could "damage" the readings in blood samples, Agent Bramlage replied, "It's possible. I know it would have more of an [effect] on an alcohol result." She explained that she could "do a pretty good estimate of . . . back extrapolation" when testing blood alcohol levels, but she could not conduct similar calculations for non-alcohol drug intoxication levels "because people metabolize drugs differently and it's not across the board for drugs as it is for alcohol." She added that unlike alcohol, which has a relatively

uniform rate of metabolism across body types, the degree to which a person metabolized other drugs was "based on [persons'] genetics." Thus, she preferred "trying to get a [blood] sample as close to when an event occurred as possible so that the result that we get can be as accurate as to what was in a person's blood at the time[.]"

After the hearing, the trial court denied Defendant's motion to suppress the blood test, stating,

> All right. Thank you both. The Court has reviewed the case of [*State v. Scarlet I. Martin*, No. M2016-00615-CCA-R3-CD, 2017 WL 1957810 (Tenn. Crim. App. Feb. 15, 2017)], a 2017 Court of [Criminal] Appeals Opinion authored by Justice [sic] Easter. And I have to agree with General Arnold that it would appear to me that the *State v. Martin* case and this case are very similar.
>
> This is a case involving a vehicular homicide death. The Trooper, they have arrived at the scene, the driver of the one vehicle has fled the scene and there's a fatality in the other vehicle and an injured passenger. That by his testimony it was about two hours or more before they located the driver, Mr. Reynolds, and then on top of that, it took him about 20 minutes or so for him to go to the location and first come into contact. And now we are talking approximately two and a half hours before he actually had contact with the individual, and that his attempts to obtain consent, for a blood draw while trying to get him into the ambulance is that he was more unconscious than conscious, showing signs of impairment from nodding off and so forth.
>
> As a result of that, where we are according to the Officer's testimony and by my personal experience, I have credited his testimony that it would take an hour to an hour and a half or more to obtain a search warrant. Now we are talking in terms of three and a half to four hours from the time of the accident. I believe in fact these facts do constitute exigent circumstances sufficient to execute the warrantless blood draw under the Martin case, and I believe that for that reason, and I again credit the officer's testimony that he was responsible for securing the accident scene, trying to clear that as well as do all of these other things and balancing all of those obligations that he had, that it's my opinion that it would have been far more than three or four hours before he could have gotten a warrant and taken care of this.
>
> So based on the *Martin* case it's my opinion there were exigent circumstances that existed on the blood draw, and for that reason the Motion to Suppress is respectfully denied.

C. Trial

At trial, James Vandivort testified that on the morning of October 20, 2019, Defendant's nephew arrived at Mr. Vandivort's house and told Mr. Vandivort that Defendant needed a ride into town. Mr. Vandivort told the visitor that he was willing to give Defendant a ride, but Mr. Vandivort's truck, the Ford F-250 involved in the crash, was out of gas. "A little while later," as Mr. Vandivort put it, Defendant and his nephew arrived at Mr. Vandivort's home carrying a small can of gas. The two men put the gas into Mr. Vandivort's truck, climbed in, and drove away. Mr. Vandivort saw Defendant was driving, and Defendant told Mr. Vandivort as they left, "I don't need you to drive." At some point before the crash, Mr. Vandivort had told Defendant not to drive the truck. Rightfully so, because later proof showed Defendant had a revoked license. Mr. Vandivort did not believe Defendant was under the influence when he (Vandivort) saw Defendant drive off in the truck.

Eric Pewitt and Noah Blaylock—who were driving in a car in front of the victim's car at the time of the crash—and C.J. Pewitt testified to what transpired. On October 20, 2019, a Sunday afternoon, Eric Pewitt[1] and Mr. Blaylock were headed eastbound on U.S. Highway 70 in Dickson County when Eric Pewitt noticed a pickup truck crossing the centerline and heading into his lane. Eric Pewitt swerved to avoid the truck, but the truck struck the car behind him, the victim's Nissan Versa, head-on. After stopping, Mr. Blaylock found the truck, a Ford F-250 pickup, flipped on its roof in a ditch alongside the road. Several persons, including Eric Pewitt, Mr. Blaylock, and Brittany Ashcraft, another driver who had pulled over when she saw the aftermath of the crash, looked into the Ford to check on the driver's condition, but nobody was inside. Ms. Ashcraft and a male bystander "busted out" one of the windows, after which she climbed into the truck and confirmed it was empty. C.J. Pewitt, the front passenger in the Nissan, did not see the truck hit the victim's car because he was looking at his cellular phone when the car was hit. The victim, who was driving the Nissan, was killed in the crash. C.J. Pewitt suffered a concussion and a laceration.

THP Trooper Gerald Buchanan, accredited as an expert in accident reconstruction, testified the driver of the Ford truck took little to no evasive or corrective action before the crash. The truck's speedometer was stuck at 57 miles per hour; the stretch of highway on which the accident occurred had a 55 miles per hour speed limit. The driver's side floorboard of the truck was "pushed up," which Trooper Buchanan testified was consistent with someone sitting in the driver's seat at the time of the collision, while the passenger-

[1] Two of the witnesses, Eric Pewitt and C.J. Pewitt, share the same surname. For clarity, our opinion will refer to them by their full names and no disrespect is intended.

side floorboard was not similarly damaged. The trooper found a red substance inside the vehicle which turned out to be a convenience store "slushy" drink. No blood was found on the driver's-side airbag, and the passenger airbag was not tested for blood. Also, photographs of the truck introduced into evidence showed a large circular crack on the passenger side and several large cracks on the driver's side. Finally, a bag of narcotics was found on the passenger side of the truck; TBI testing confirmed the substances included 1.5 grams of methamphetamine and 1 gram of cannabis. The passenger side airbag had deployed, but it was not tested for DNA.

Shane Petty, the Chief Law Enforcement Ranger for Tennessee State Parks, was dispatched to the crash scene around 4:00 p.m. on October 20. He said he was called to the scene because it bordered Montgomery Bell State Park. At the time Ranger Petty was dispatched, he learned one of the drivers involved in the accident could not be found. Ranger Petty was a K-9 handler and brought his dog with him to aid in the search. When he arrived at the crash scene around 5:30 p.m., several THP troopers and Dickson County Sheriff's Deputies were already there. Trooper Petty and his dog began their search in a field behind a house "directly above the crash scene" that bordered the park. The dog picked up a human scent, and Trooper Petty found a man, who identified himself as Defendant, in the woods about twenty to twenty-five feet from where the dog first alerted. Ranger Petty explained the woods where Defendant was found was about four-tenths of a mile from the crash site on land that was "pretty hilly. It's a straight up hill. It's a pretty vigorous height."

Ranger Petty testified that when he spoke with Defendant, "he would kind of doze off and I would have to rouse him a little bit and I wasn't really sure what that may be from." Ranger Petty acknowledged that both head trauma and intoxication could have caused someone to act in a manner consistent with Defendant's actions. The ranger, who testified he was also a licensed emergency medical technician (EMT), was concerned over possible head injuries or internal bleeding, so the ranger examined Defendant. Ranger Petty saw a small scratch on Defendant's foot and what looked like blood on Defendant's elbow; the ranger also saw a bright red spot on Defendant's mouth, but he was unable to see whether Defendant was bleeding from the mouth. Ranger Petty found no outward signs on Defendant suggesting internal injury. The ranger asked Defendant how he got to where he was found; Defendant told the ranger that his (Defendant's) girlfriend had dropped him off. Yet, Defendant kept dozing off and could not speak further with the ranger, so the ranger called for an ambulance.

Sergeant Lee Russell, a Pilot Sergeant with THP's Aviation Section, was flying from his home in West Tennessee to a crime scene in Robertson County when he was redirected to the crash site in this case. He landed in the field next to the woods where Ranger Petty had found Defendant. Sergeant Russell testified that when he saw Defendant,

he "[s]eemed intoxicated . . . due to, you know, his eyes. He didn't really say anything, he . . . just [was] out of it, I guess would be the best way to describe it."

THP Trooper Patrick Binkley, who led the THP investigation in this case, testified that in addition to the standard field sobriety test training all THP troopers received, he had taken part in "Advanced Roadside Impaired Driving Enforcement" training, which focused on "recognizing drug use and impairment[.]" He also said that from the time he took the advanced class in 2018 to the time of this accident, he had investigated approximately thirty accidents involving intoxicated drivers, with about half of those involving intoxicants other than alcohol.

Trooper Binkley testified that after C.J. Pewitt was taken away in an ambulance, he (Binkley) and other law enforcement began looking for the driver of the Ford, but could not find anyone. Approximately forty-five minutes to one hour after Trooper Binkley arrived at the scene, he learned Mr. Vandivort was the registered owner of the truck, so THP troopers went to Mr. Vandivort's home. Through speaking with Mr. Vandivort, troopers determined Defendant had been driving the truck earlier that day.

Trooper Binkley testified, "[i]t was at least another hour after" receiving this information that Defendant was located. The trooper said "anywhere from two to three hours" elapsed between his first arriving on the scene to law enforcement's discovering Defendant in the woods.

When asked about his initial assessment of Defendant's demeanor, Trooper Binkley said he noticed

> More or less . . . incoherence, the unable [sic] to get much of a response from him. Based on the training and experience that I have there's a term that likes to be thrown around called on the nod. Basically what that means is you have moments of cohesion where your coherency, where you are able to speak, comprehend, and then the next moment you are completely incoherent or even unconscious. And that's typically consistent with drug use.

Based on these observations, Trooper Binkley believed Defendant to be intoxicated. The trooper explained that normally law enforcement attempted to obtain consent to draw a suspect's blood. Trooper Binkley attempted to gain Defendant's consent but was unable to do so. The trooper encountered the same difficulties in speaking with Defendant that Ranger Petty described in his testimony. Trooper Binkley then testified that pursuant to the state's implied consent law, if law enforcement did not obtain consent from the subject, a warrant could be obtained from a judge or magistrate. However, given that at least three hours had passed between the accident and the time of the blood draw, Trooper Binkley

was "concern[ed] . . . that [Defendant's] body would metabolize any possible intoxicants that were in his system before we could get valid evidence." Believing exigent circumstances existed for him to collect Defendant's blood without a warrant, Trooper Binkley obtained Defendant's blood sample while Defendant was inside an ambulance at the crash site. As he had acknowledged at the suppression hearing, Trooper Binkley testified although he believed Defendant to be intoxicated at the time of their encounter, head injuries could also produce symptoms consistent with those Defendant exhibited.

Agent Bramlage testified regarding her testing of Defendant's blood samples, which were drawn at 6:19 p.m. the day of the accident. The samples contained 28 nanograms per milliliter of diazepam (commonly known as Valium) and 0.43 micrograms per milliliter of methamphetamine, along with the metabolites of both substances. Over the objection of defense counsel, Agent Bramlage testified, "Individuals under the influence of [d]iazepam look like they're drunk, they just don't smell drunk." She also stated that while methamphetamine was a stimulant, after the effects of the stimulant wear off "your body is going to crash. It's going to come down. So now you are going to be very fatigued, very tired, you are going to look like maybe you are under the influence of a depressant." She added that these "crash" effects could be compounded if a person also was taking a drug like diazepam, stating "it's almost like you have two drugs acting at the same time to depress that person's nervous system." However, as at the suppression hearing, Agent Bramlage acknowledged that unlike alcohol, the effects of a particular drug on an individual vary from person to person. She acknowledged without "a specific study" on Defendant's medical history and how drugs affected him, she could not offer testimony about how the drugs in his system the day of the accident affected him at that time. She also acknowledged the concentration of diazepam in Defendant's blood was within the therapeutic range.

Following its deliberations, the jury found Defendant guilty as charged for aggravated vehicular homicide (Count 1), vehicular homicide (Count 2), reckless homicide (Count 3), vehicular assault by driving under the influence (Count 4), simple possession of a schedule II controlled substance (Count 5), leaving the scene of an accident (Count 6), evading arrest (Count 7), and driving on a revoked license (Count 8). In a bifurcated hearing held after the jury returned its initial verdicts, the State presented evidence that Defendant had two prior DUI convictions. His first conviction occurred in January 1998 in the Municipal Court for the City of Dickson, and the second conviction occurred in May 2004 in Dickson County General Sessions Court. Based upon these two prior convictions, the jury found Defendant guilty of aggravated vehicular homicide following its deliberations in the bifurcated hearing. At sentencing, the trial court merged Counts 2 and 3 into Count 1, as all three counts related to the same offense—the vehicular homicide of the victim. The trial court sentenced Defendant to an effective term of fifty-two years in the Department of Correction for the felony convictions, plus three consecutive

misdemeanor sentences of eleven months, twenty-nine days (two counts) and six months in the Dickson County Jail.[2] This timely appeal followed.

II. Analysis

A. Warrantless Blood Draw

Defendant argues the trial court erred in denying his motion to suppress the results of the tests on his blood taken after the crash because the warrantless search and seizure of his blood was unconstitutional. The State maintains that the warrantless blood draw was justified based on exigent circumstances. We agree with the State.

In reviewing a trial court's decisions on suppression issues, this court must "uphold the trial court's findings of fact, unless the evidence preponderates against them." *State v. Tuttle*, 515 S.W.3d 282, 299 (Tenn. 2017) (citing *State v. Bell*, 429 S.W.3d 524, 528 (Tenn. 2014)). "Questions of credibility of the witnesses, the weight and value of the evidence, and resolution of conflicts in the evidence are matters entrusted to the trial judge as the trier of fact." *State v. Odom*, 928 S.W.2d 18, 23 (Tenn. 1996). "The party prevailing in the trial court 'is entitled to the strongest legitimate view of the evidence adduced at the suppression hearing, as well as to all reasonable and legitimate inferences that may be drawn from [the] evidence.'" *Tuttle*, 515 S.W.3d at 299 (quoting *Bell*, 429 S.W.3d at 529; other citations omitted). Conversely, "[t]he application of law to the facts is reviewed de novo, and the appellate court is not obliged to afford a presumption of correctness to the [trial] court's conclusions of law." *Tuttle*, 515 S.W.3d at 299 (citing *State v. Walton*, 41 S.W.3d 75, 81 (Tenn. 2001)). When reviewing a trial court's ruling on a motion to suppress, an appellate court "may consider the entire record, including not only the proof offered at the hearing, but also the evidence adduced at trial." *State v. Williamson*, 368 S.W.3d 468, 473 (Tenn. 2012) (citing *State v. Henning*, 975 S.W.2d 290, 297-99 (Tenn. 1998)).

1. Search and Seizure Law Generally

The Tennessee Supreme Court has offered this summary of the guiding principles in search and seizure jurisprudence:

> The Fourth Amendment to the United States Constitution guarantees that "'[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause. . . .'" *State v. Christensen*, 517 S.W.3d 60, 68 (Tenn. 2017) (quoting U.S. Const. amend.

[2] Defendant does not challenge the length of any sentence on appeal.

IV); *State v. McCormick*, 494 S.W.3d 673, 678 (Tenn. 2016). Determining whether a particular search is "unreasonable" and therefore a violation of the rights guaranteed by the Fourth Amendment "'depends upon all of the circumstances surrounding the search . . . and the nature of the search . . . itself.'" *Turner*, 297 S.W.3d at 160 (quoting *United States v. Montoya de Hernandez*, 473 U.S. 531, 537, 105 S. Ct. 3304, 87 L.Ed.2d 381 (1985)).

Similarly, article I, section 7 of the Tennessee Constitution provides that "'the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures.'" *Christensen*, 517 S.W.3d at 68 (quoting Tenn. Const. art. I, § 7). This Court has opined that the search and seizure provision in the Tennessee Constitution is "'identical in intent and purpose with the Fourth Amendment.'" *Id.* at 68 (quoting *Sneed v. State*, 221 Tenn. 6, 423 S.W.2d 857, 860 (1968)). Searches and seizures conducted pursuant to valid warrants are presumptively reasonable. *McCormick*, 494 S.W.3d at 678-79 (citing *State v. Scarborough*, 201 S.W.3d 607, 616-17 (Tenn. 2006)). Conversely, warrantless searches and seizures are presumptively unreasonable, and any evidence that is discovered as a result thereof is subject to suppression. *Turner*, 297 S.W.3d at 160 (citing *Coolidge v. New Hampshire*, 403 U.S. 443, 454-55, 91 S. Ct. 2022, 29 L.Ed.2d 564 (1971); *State v. Bridges*, 963 S.W.2d 487, 490 (Tenn. 1997)); *McCormick*, 494 S.W.3d at 678-79 (citing *Kentucky v. King*, 563 U.S. 452, 459, 131 S. Ct. 1849, 179 L.Ed.2d 865 (2011); *State v. Bell*, 429 S.W.3d 524, 529 (Tenn. 2014)). The general rule governing presumptively unreasonable warrantless searches and seizures "is subject to 'a few specifically established and well-delineated exceptions[,] jealously and carefully drawn.'" *Turner*, 297 S.W.3d at 160 (quoting *Coolidge*, 403 U.S. at 455, 91 S. Ct. 2022).

> "These exceptions include searches and seizures conducted incident to a lawful arrest, those yielding contraband in plain view, those in the hot pursuit of a fleeing criminal, those limited to a stop and frisk based on reasonable suspicion of criminal activity, those based on probable cause in the presence of exigent circumstances, and those based on consent."

Id. (quoting *State v. Day*, 263 S.W.3d 891, 901 n.9 (Tenn. 2008)) (internal quotation marks omitted). The State carries the burden of proving that a warrantless search was constitutionally permissible. *State v. Ingram*, 331 S.W.3d 746, 755 (Tenn. 2011) (citing *State v. Nicholson*, 188 S.W.3d 649,

656-57 (Tenn. 2006)); *State v. Berrios*, 235 S.W.3d 99, 105 (Tenn. 2007) (citing *State v. Yeargan*, 958 S.W.2d 626, 629 (Tenn. 1997)).

State v. McElrath, 569 S.W.3d 565, 570-71 (Tenn. 2019).

2. Warrantless Blood Draws in Driving Under the Influence Cases

The United States Supreme Court has "long recognized that a 'compelled intrusio[n] into the body for blood to be analyzed for alcohol content' must be deemed a Fourth Amendment search." *Skinner v. Ry Labor Execs. Ass'n*., 489 U.S. 602, 616 (1989) (quoting *Schmerber v. California*, 384 U.S. 757, 767-68 (1966) (alteration in *Schmerber*)). In this case, the trial court found that exigent circumstances justified the warrantless collection of Defendant's blood. "To determine whether a law enforcement officer faced an emergency that justified acting without a warrant," a reviewing court "looks to the totality of the circumstances." *Missouri v. McNeely*, 569 U.S. 141, 149 (2013). As the Tennessee Supreme Court has stated,

> [T]he inquiry is whether the circumstances give rise to an objectively reasonable belief that there was a compelling need to act and insufficient time to obtain a warrant. The exigency of the circumstances is evaluated based upon the totality of the circumstances *known to the governmental actor at the time of the entry*. Mere speculation is inadequate; rather, the State must rely upon specific and articulable facts and the reasonable inferences drawn from them. The circumstances are viewed from an objective perspective; the governmental actor's subjective intent is irrelevant.

State v. Meeks, 262 S.W.3d 710, 723 (Tenn. 2008) (footnotes omitted; emphasis added).

"Prior to the ruling in *McNeely*, many courts, including this one, had concluded that the natural dissipation of alcohol in the blood over time created exigent circumstances in every case 'involving intoxicated motorists.'" *State v. Jerry Ray Oaks*, No. E2017-02239-CCA-R3-CD, 2019 WL 560271, at *17 (Tenn. Crim. App. Feb. 12, 2019) (quoting *State v. Michael A. Janosky*, No. M1999-02574-CCA-R3-CD, 2000 WL 1449367, at *4 (Tenn. Crim. App. Sept. 29, 2000)). In *McNeely*, the United States Supreme Court considered "whether the natural metabolization of alcohol in the bloodstream presents a per se exigency that justifies an exception to the Fourth Amendment's warrant requirement for nonconsensual blood testing in all drunk-driving cases." 569 U.S. at 144. The Court rejected Missouri's arguments in favor of such an exception, holding that "consistent with general Fourth Amendment principles, that exigency in this context must be determined case by case based on the totality of the circumstances." *Id.* Put another way, "In those drunk-driving investigations where police officers can reasonably obtain a warrant before

a blood sample can be drawn without significantly undermining the efficacy to the search, the Fourth Amendment mandates that they do so." *Id*. at 152.

"This court has found exigent circumstances justifying a warrantless blood draw only twice since the *McNeely* decision." *Jerry Ray Oaks*, 2019 WL 560271, at *20. One of those cases, *State v. Scarlet I. Martin*, was cited by the trial court in this case when it determined exigent circumstances existed to justify the warrantless blood draw. In *Scarlet I. Martin*, a THP trooper arrived at a single-car accident scene around 11:05 p.m., some thirty-five minutes after the accident. 2017 WL 1957810, at *4. Local law enforcement was present at the accident scene when the trooper arrived, but the local authorities left the scene about fifteen minutes later to answer other calls. *Id.* The trooper discussed only "the basic facts" of the accident with local law enforcement before their departure. *Id.* At the accident scene, the trooper "did not have any reason to believe that he was investigating a potential DUI." *Id.* The trooper remained at the accident scene alone and concluded his on-scene investigation before departing for the hospital where the defendant, the driver, had been taken. *Id.* He arrived at the hospital around 12:20 a.m. *Id.* at *1. When the trooper encountered the defendant, he noticed an obvious smell of alcoholic beverage coming from her. *Id.* Around 12:45 a.m., about two hours and fifteen minutes after the accident, the trooper attempted to obtain the defendant's consent for a blood draw, but she refused. *Id.* at *4. This court explained the trooper's subsequent actions and the reasons he gave for them at the pretrial suppression hearing:

> Trooper Campbell then ordered an involuntary blood draw based on the time elapsed since the accident and the fact that the passenger was injured. Trooper Campbell was also concerned that Defendant might have been released from the hospital while he was obtaining a warrant. He did not make any attempt to obtain a warrant or inquire as to how long it would take to do so. Trooper Campbell explained that, based on previous experience, it probably would have taken him an additional thirty minutes to prepare a warrant application and it would have taken the magistrate another thirty minutes to get to the courthouse. On the one previous occasion that Trooper Campbell had obtained a search warrant for a blood draw in Cheatham County at night, it took about an hour and twenty minutes

Id. We concluded the trial court properly found exigent circumstances justified the warrantless draw of the defendant's blood:

> Trooper Campbell acted reasonably under the facts of this case by authorizing a warrantless blood draw so as to prevent a delay of over three hours before Defendant's blood could be preserved as evidence of DUI. This was not a situation where the exigent circumstances were created by the state

> actors. Trooper Campbell performed his work as efficiently as he could under the circumstances. Seeking a search warrant for Defendant's blood would have taken considerable additional time, thereby significantly undermining the efficacy of the criminal investigation. Therefore, the warrantless draw of Defendant's blood was justified on the basis of exigent circumstances.

Id. at *7 (footnote omitted).

In the other post-*McNeely* opinion, a THP trooper arrived at an accident scene involving a crashed motorcycle. *State v. Darryl Alan Walker*, No. E2013-01914-CCA-R3-CD, 2014 WL 3888250, at *1 (Tenn. Crim. App. Aug. 8, 2014). The motorcycle's driver (the defendant) had left the scene in an ambulance by time the trooper arrived, but the passenger, who showed signs of potential intoxication, remained. By time the trooper finished his on-scene investigation—which involved him assisting a tow truck driver in retrieving the crashed motorcycle—at least an hour had passed, and the trooper was the last person at the scene. *Id.* The trooper then drove twenty minutes to the hospital where the defendant had been transported; upon arriving, the trooper noticed the defendant had an "obvious odor of alcoholic beverage coming from his breath" and bloodshot eyes. *Id.* According to the trooper, the defendant "was having trouble staying awake and keeping up with the conversation." *Id.* The trooper then let hospital staff continue treating the defendant before the trooper placed the defendant under arrest. *Id.*

The trooper then read the defendant a written implied consent form; the trooper signed the written implied consent form approximately two hours after he arrived at the accident scene. *Id.* at *2. Apparently, the record was unclear as to whether the defendant explicitly refused to submit to the blood test, but the trooper obtained the defendant's blood sample without a warrant because "in order to secure a search warrant at that time, he would have first needed to call a supervisor to obtain a search warrant to fill out and then to locate a magistrate to approve it." *Id.* The trial court denied the defendant's pretrial motion to suppress the blood draw, stating that it "considered the totality of the circumstances and concluded that 'it was not reasonable for [the trooper] to leave and go try to find a judge to try and write up a warrant.'" *Id.* (alteration added). On appeal, this court, citing to these facts, concluded "the results of the blood alcohol analysis were admissible under the exigency exception to the warrant requirement, irrespective of the validity of the [d]efendant's consent under the implied consent statute." *Id.* at *5.

Defendant contends *Scarlet I. Martin* and *Darryl Alan Walker* are inapplicable to his case because in both of those cases, a single responding officer was solely responsible for clearing the accident scene and conducting the investigation, whereas in this case Trooper Binkley could have reached out to any of several other law enforcement officers at the scene for assistance in obtaining a search warrant. Defendant also emphasizes that

while most post-*McNeely* opinions have dealt with alcohol intoxication, in this case Defendant was under the influence of drugs. Defendant writes in his brief, "[a]s Agent Bramlage testified, drugs have a different and longer metabolism timeline than alcohol, opening a much larger window for when blood can be obtained from a defendant without the investigation being compromised." In sum, Defendant contends Trooper Binkley's fear of dissipation of the drugs in Defendant's blood and his inability to obtain a warrant were the type of speculation the courts have disfavored to support warrantless searches.

Defendant's brief cites several opinions of this court which he claims are more applicable to the current case. In one such case, *State v. James K. Gardner*, No. E2014-00310-CCA-R3-CD, 2014 WL 5840551, at *9 (Tenn. Crim. App. Nov. 12, 2014), two sheriff's deputies stopped a driver at 10:54 p.m. After the driver performed poorly on field sobriety tests, the driver was placed under arrest for suspicion of driving under the influence. *Id.* The driver was taken from the scene to a hospital twenty-two minutes after the traffic stop, and within the following twenty minutes the driver refused to submit to a blood draw, leading to a warrantless blood draw. *Id.* Neither of the two deputies had ever obtained a search warrant in the past; they explained they would have had to take the driver to the police station, have a sergeant complete the warrant forms, then contact a judge to sign the warrant. *Id.* The deputies did not attempt to do anything to obtain a warrant. *Id.* We concluded exigent circumstances did not exist to justify the warrantless search, stating,

> The blood draw occurred about forty-four minutes after the traffic stop began. Three law enforcement officers were present at the scene. [The first deputy] could have driven the Defendant to the hospital and waited for [the second deputy] to drive to the station or the detention center, complete the warrant forms, and contact [a local judge], who lived about five to ten minutes from the scene. The hospital was approximately ten to fifteen minutes from the scene, and no evidence showed that driving to the station or the detention center to prepare a warrant would have significantly delayed the blood draw. As a result, we cannot conclude that exigent circumstances justified the warrantless blood draw.

Id.

In another case cited by Defendant, officers found an unoccupied truck which had crashed into a building in Williamson County. *State v. James Dean Wells*, No. M2013-01145-CCA-R9-CD, 2014 WL 4977356, at *1 (Tenn. Crim. App. Oct. 6, 2014). Twenty minutes after the accident, the driver was found at a gas station about a half-mile from the accident scene; the driver was "emanating a strong scent of alcohol and standing unsteadily on his feet." *Id.* at *2. The driver admitted to drinking before the accident. *Id.* After about fifteen minutes of failed field sobriety tests, the driver was placed under arrest for suspicion

of DUI and taken to a hospital located across the street from the gas station. *Id.* The driver's blood was taken roughly one hour after arriving at the hospital, or an hour and forty-five minutes after officers first arrived at the accident site. *Id.* The driver refused a voluntary blood draw, and the blood was taken without a warrant. *Id*. The officer who drove the driver to the hospital and arranged to have the driver's blood drawn testified at a suppression hearing that he had never prepared a search warrant and had no idea how long it would have taken. *Id.* He also was aware that a magistrate was available twenty-four hours per day at the county jail, which was located no more than ten minutes from the hospital. *Id.* A judicial magistrate testified at the suppression hearing that it would have taken no more than ten minutes to review and sign a warrant. *Id.* The trial court concluded that the totality of the circumstances did not support a warrantless blood draw based on exigent circumstances, and this court affirmed the lower court's ruling after the State appealed. *Id.* at *5.

This case is different. Considering the totality of the circumstances in this case, we agree with the trial court that exigent circumstances justified the warrantless seizure of Defendant's blood. Defendant correctly states that several law enforcement officers were on the accident scene, but they were unable to locate the Defendant quickly. Unlike the driver in *James Dean Wells*, who was found at a gas station twenty minutes after his accident, here, Defendant was not found until at least two hours had passed since the fatal crash, and he was found in a remote wooded area in rural Dickson County. And here, most of the delay in obtaining Defendant's blood was caused by Defendant, who had fled the scene. All of this strengthens the State's exigent circumstances argument. Trooper Binkley was an experienced investigator who was familiar with the warrant process. The trial court accredited Trooper Binkley's testimony that it would have taken him another one to two hours to drive from the crash site to the sheriff's office, compose a search warrant, find an available judicial officer to sign the warrant, and return to the site. If the trooper somehow were able to obtain a warrant, Defendant could have been at a Nashville hospital by then, and the warrant would be invalid. These facts differ greatly from those in *James Dean Wells*, where an on-call magistrate was available in an office ten minutes from the hospital where the driver was taken, and the magistrate would have taken no more than ten minutes to review and sign the warrant. These facts also differ from *James K. Gardner*, where there was no proof about the amount of time it would have taken to compose and obtain a warrant, and less than an hour had passed between the car wreck and the warrantless blood draw.

In his brief, Defendant asserts "drugs metabolize much more slowly than alcohol and those drugs still seemed to be having an effect on Mr. Reynolds," thus giving the State more time to obtain a warrant and obtain accurate toxicology readings than if Defendant were intoxicated due to alcohol. However, the trial court accredited the testimony of Agent Bramlage, who testified that drugs, unlike alcohol, metabolized at different rates for

different persons. Here, Trooper Binkley was faced with a more compelling need to act and a greater possibility that he had insufficient time to obtain a warrant than in the cases cited by Defendant.

Additionally, the trial court accredited Trooper Binkley's testimony that Defendant was incoherent and, essentially, passing in and out of consciousness while interacting with law enforcement. Trooper Binkley testified, based on his experience with DUI investigations—which included persons intoxicated due to drug use—that Defendant's actions and demeanor were consistent with someone under the influence of drugs, possibly depressants. We observe that the United States Supreme Court and this court have concluded that exigent circumstances existed to justify a warrantless blood draw based on an unconscious driver who was, at the time of the police encounter, unable to consent to such a request. *See Mitchell v. Wisconsin*, 139 S. Ct. 2525, 2537-38 (2019) (intoxicated driver who was unable to stand for field sobriety test lost consciousness during ride to hospital and did not respond to verbal implied consent admonition; "exigency exists when (1) BAC evidence is dissipating and (2) some other factor creates pressing health, safety, or law enforcement needs that would take priority over a warrant application. Both conditions are met when a drunk-driving suspect is unconscious"); *State v. Bowman*, 327 S.W.3d 69, 85 (Tenn. Crim. App. 2009) (exigent circumstances existed for warrantless blood draw when apparently intoxicated driver in fatal accident was found unconscious outside his car, and given lateness of hour judge would be unavailable to sign warrant for blood draw). While in this case Defendant may not have been in a state of sustained unconsciousness, as were the drivers in *Mitchell* and *Bowman*, Defendant's intoxication rendered him unable to communicate intelligently with law enforcement, much less give informed consent. This factor weighs in favor of the trial court's finding that exigent circumstances existed to support the warrantless blood draw.

Considering the totality of the circumstances, we conclude the trial court properly found that Trooper Binkley reasonably believed he had a compelling need to draw Defendant's blood and insufficient time to obtain a warrant to seize the blood. There were exigent circumstances to justify the warrantless blood draw, and Defendant is not entitled to relief on this issue.

B. Admission of Expert Testimony

Defendant next argues the trial court erred by allowing TBI Agent Bramlage to testify as an expert witness and offer opinion testimony as to the effects of the drugs found in Defendant's system. Specifically, Defendant asserts Agent Bramlage's training in this area was insufficient to qualify her as an expert witness, while the State contends the trial court acted within its discretion in determining the witness was qualified to offer expert testimony. We agree with the State.

At trial, Agent Bramlage testified that during her first year with TBI, she underwent "a one[-]year training period where I was under the direct supervision of an experienced and qualified toxicologist." This on-the-job training involved learning about testing blood samples, including learning about the equipment used in her work, and preparing and interpreting reports. She also "had to do a lot of training on the interpretation of what drugs can do to the human body and how that affects their driving." That involved out-of-office training with FBI, the Georgia Bureau of Investigation, and Indiana University. She explained ten years before trial she took part in the "Borkenstein course," which she described as "kind of the gold standard class . . . to get all of your introductory training. It's a one[-]week class . . . where the people that do the research on the drugs and the research on the alcohol are the ones giving the classes all around the world." She testified she took an updated Borkenstein course approximately two weeks before trial "because drugs tend to change over ten years." She also attended a symposium presented at the University of Iowa that was based on the Borkenstein course and addressed interactions between a variety of drugs and the human body. Furthermore, Agent Bramlage's curriculum vitae, introduced as an exhibit at trial, showed she had presented two courses to the Society of Forensic Toxicologists on the effects of substances and the act of driving. Before her employment with TBI, she obtained a master's degree in forensic toxicology from the University of Florida.

Agent Bramlage testified she had been "qualified as an expert in toxicology and blood alcohol and the effects on driving in forensic toxicology" previously, and she had been qualified as an expert in the trials involving the "Vanderbilt rape case,"[3] which involved alcohol and "a possibility of benzodiazepines." She said this trial represented the seventy-first time she had been qualified as an expert. Agent Bramlage acknowledged that she could not form a conclusion about how, specifically, the drugs in Defendant's system affected him, as such a conclusion would require an individual study of Defendant—which she had not done. She also offered no specific testimony about her work experiences with methamphetamine.

Tennessee Rule of Evidence 702 provides, "[i]f scientific, technical, or other specialized knowledge will substantially assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise." The admissibility of expert testimony is entrusted to the sound discretion of the trial court, and "[r]eviewing courts will not reverse a decision regarding the admission or exclusion of expert testimony unless the trial court has abused its discretion." *State v. Scott*, 275 S.W.3d

[3] *See, e.g.*, *State v. Cory Lamont Batey*, No. M2017-02440-CCA-R3-CD, 2019 WL 6817059, at *15 (Tenn. Crim. App. Dec. 13, 2019).

395, 404 (Tenn. 2010) (citing *State v. Reid*, 91 S.W.3d 247, 294 (Tenn. 2002) (appendix)); *State v. Copeland,* 226 S.W.3d 287, 301 (Tenn. 2007). "A trial court abuses its discretion when it applies incorrect legal standards, reaches an illogical conclusion, bases its decision on a clearly erroneous assessment of the evidence, or employs reasoning that causes an injustice to the complaining party." *Scott*, 275 S.W.3d at 404 (citing *Konvalinka v. Chattanooga-Hamilton Cnty. Hosp. Auth*., 249 S.W.3d 346, 358 (Tenn. 2008)).

A proposed expert witness "may acquire the necessary expertise through formal education or life experience." *Reid*, 91 S.W.3d at 302 (citation omitted). "However, the witness must have such superior skill, experience, training, education, or knowledge within the particular area that his or her degree of expertise is beyond the scope of common knowledge and experience of the average person." *Id.* The determining factor is "whether the witness's qualifications authorize him or her to give an informed opinion on the subject at issue." *State v. Stevens*, 78 S.W.3d 817, 834 (Tenn. 2002).

Here, Agent Bramlage testified regarding her extensive training, work experience, and prior history testifying as an expert in toxicology. Given this testimony, detailed above, the State established Agent Bramlage possessed "superior . . . training, education, or knowledge within" the area of toxicology such that "her degree of expertise [was] beyond the scope of common knowledge and experience of the average person." *Reid,* 91 S.W.3d at 302. Agent Bramlage acknowledged she was unable to determine how the drugs in Defendant's system at the time of the accident affected him specifically, as she had not studied how such drugs affected him. However, such testimony went to the weight of her testimony, not its admissibility. Accordingly, the trial court did not abuse its discretion in permitting Agent Bramlage to offer opinion testimony. Defendant is not entitled to relief on this issue.

C. Sufficiency of Evidence

Defendant argues the evidence was insufficient to sustain most, but not all, of his convictions. We disagree.

The standard of review of a claim challenging the sufficiency of the evidence is "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (citing *Johnson v. Louisiana*, 406 U.S. 356, 362 (1972)); *see* Tenn. R. App. P. 13(e); *State v. Davis*, 354 S.W.3d 718, 729 (Tenn. 2011). This standard of review is identical whether the conviction is predicated on direct or circumstantial evidence, or a combination of both. *State v. Williams*, 558 S.W.3d 633, 638 (Tenn. 2018) (citing *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011)).

A guilty verdict removes the presumption of innocence and replaces it with one of guilt on appeal, therefore, the burden is shifted to the defendant to demonstrate why the evidence is insufficient to support the conviction. *Davis*, 354 S.W.3d at 729 (citing *State v. Sisk*, 343 S.W.3d 60, 65 (Tenn. 2011)). On appellate review, "we afford the prosecution the strongest legitimate view of the evidence as well as all reasonable and legitimate inferences which may be drawn therefrom." *Id*. at 729 (quoting *State v. Majors*, 318 S.W.3d 850, 857 (Tenn. 2010)); *State v. Cabbage,* 571 S.W.2d 832, 835 (Tenn. 1978). In a jury trial, questions involving the credibility of the witnesses and the weight and value to be given to evidence, as well as all factual disputes raised by such evidence, are resolved by the jury as the trier of fact. *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997); *State v. Pruett*, 788 S.W.2d 405, 410 (Tenn. 1990). Therefore, we are precluded from re-weighing or reconsidering the evidence when evaluating the convicting proof. *State v. Stephens*, 521 S.W.3d 718, 724 (Tenn. 2017).

1. Counts 1, 2, and 4: Aggravated Vehicular Homicide, Vehicular Homicide, and Vehicular Assault

Defendant argues the evidence was insufficient to support his convictions for aggravated vehicular homicide in Count 1, vehicular homicide by driver intoxication in Count 2, and vehicular assault by driving under the influence in Count 4. He asserts the evidence was insufficient because "there [was] insufficient proof that Mr. Reynolds' intoxication was the proximate cause of the accident." Although Defendant argued at trial that he was not driving the F-250 at the time of the crash, he appears to have abandoned this argument on appeal, raising only the proximate causation issue as to these counts.

Defendant was convicted of vehicular homicide in Count 2. That offense is defined, in pertinent part, as "the reckless killing of another by the operation of an automobile . . . as the proximate result of . . . [t]he driver's intoxication, as set forth in § 55-10-401[.]" Tenn. Code Ann. § 39-213(a)(2). The vehicular homicide statute makes clear that "intoxication" includes both alcohol intoxication and drug intoxication. *Id.* The driving under the influence statute defines intoxication, relative to this case, as "[u]nder the influence of any intoxicant . . . controlled substance, controlled substance analogue, drug . . . or combination thereof that impairs the driver's ability to safely operate a motor vehicle by depriving the driver of the clearness of mind and control of oneself that the driver would otherwise possess." Tenn. Code Ann. § 55-10-401(1).

Defendant was convicted of aggravated vehicular homicide in Count 1, which in pertinent part is defined as "vehicular homicide as described in § 39-13-213(a)(2)," where the offender has two or more prior convictions for driving under the influence. Tenn. Code

Ann. § 39-13-218(a)(1)(A). In the bifurcated proceedings in this case, evidence was presented establishing Defendant had two prior convictions for driving under the influence.

Defendant's conviction for vehicular assault in Count 4 required the State to establish Defendant was intoxicated, that he recklessly caused serious bodily injury to another by operating a motor vehicle, and that his intoxication was the proximate cause of the injury. *See* Tenn. Code Ann. §§ 39-13-101(a)(1) (assault), 39-13-106(a) (vehicular assault), 55-10-401 (intoxication, DUI).

As relevant to these offenses, our criminal code provides,

> "Reckless" refers to a person who acts recklessly with respect to . . . the result of the conduct when the person is aware of but consciously disregards a substantial and unjustifiable risk that . . . the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint.

Tenn. Code Ann. § 39-11-302(c).

The evidence in this case, viewed in the light most favorable to the State, shows that when both Trooper Binkley and Ranger Petty encountered Defendant several hours after the crash, he was incoherent, had difficulty speaking, and appeared to be drifting in and out of consciousness. Defendant appeared intoxicated and his blood test confirmed it. He tested positive for methamphetamine and diazepam. Agent Bramlage testified regarding the effects of these substances—including the effects of mixing them that could cause intoxication. Defendant asserts, correctly, that Mr. Vandivort testified at trial that he did not believe Defendant was intoxicated at the time Defendant drove off in Mr. Vandivort's truck, but this interaction occurred around noon. This was more than three hours before the wreck and was brief, as Mr. Vandivort only saw Defendant back out of the driveway and drive off. Given the testimony regarding Defendant's intoxication and the potential effects of the drugs found in his system, coupled with Defendant's driving pattern—specifically, that Defendant nearly hit another car, never applied his brakes, and never took corrective action to avoid the crash before he struck the victim's car head-on—we conclude the evidence was sufficient to establish Defendant's intoxication was the proximate cause of the crash that killed the victim and injured C.J. Pewitt, and that Defendant acted recklessly in doing so.

2. Count 3: Reckless Homicide

Defendant next argues the evidence was insufficient to support his conviction for reckless homicide in Count 3 of the indictment. His sufficiency argument for this offense is limited to the assertion that there was insufficient proof that Defendant acted recklessly in causing the victim's death. We disagree.

Reckless homicide is the "reckless killing of another." Tenn. Code Ann. § 39-13-215(a). Our criminal code's definition of "reckless" is provided above. As relative to this offense, Defendant was found several hours after the crash showing symptoms of intoxication; Defendant's intoxication was confirmed by a subsequent blood test which showed diazepam and methamphetamine in his system. The accident investigation showed that Defendant took no evasive action before veering into oncoming traffic and striking another vehicle, killing the driver and injuring a passenger. In the light most favorable to the State, this evidence was sufficient to establish that Defendant's driving while under the influence of multiple drugs created a substantial and unjustifiable risk that the wreck he caused would occur and that his actions were a gross deviation from the standard of care an ordinary driver would exercise. Thus, the evidence was sufficient to support Defendant's conviction for reckless homicide.

3. Count 7: Evading Arrest

Finally, Defendant argues the evidence was insufficient to support his conviction for evading arrest in Count 7 of the indictment. He contends "there [was] no proof that Mr. Reynolds knew an officer was attempting to arrest him." We disagree.

Defendant was convicted of misdemeanor evading arrest, which provides that "it is unlawful for any person to intentionally conceal themselves or flee by any means of locomotion from anyone the person knows to be a law enforcement officer if the person . . . [k]nows the officer is attempting to arrest the person[.]" Tenn. Code Ann. § 39-13-603(a)(1)(A). The evidence produced at trial showed that Defendant left the scene of a fatal automobile crash and hid in a wooded area about four-tenths of a mile from the crash scene and not readily visible from the road. Defendant remained hidden over the next two to three hours on top of a "straight up hill." From his position, he likely would have heard and possibly saw the commotion on the road below and saw aircraft in the skies above. Defendant likely would have known the commotion was associated with what he had done. Law enforcement would have been looking for Defendant, who the police suspected to be the driver in a fatal accident, and Defendant would have known law enforcement were seeking to arrest him, at the very least, for leaving the scene of the accident. In the light most favorable to the State, this court concludes the evidence was sufficient to convict Defendant of evading arrest. Defendant is not entitled to relief on this issue.

III. Conclusion

Based on the foregoing, we affirm the judgments of the trial court.

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MATTHEW J. WILSON, JUDGE