

Circuit Court for Caroline County
Case No. C-05-CR-19-000274

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2128

September Term, 2019

KYREE COOPER

v.

STATE OF MARYLAND

Nazarian,
Shaw Geter,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 13, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a bench trial in the Circuit Court for Caroline County, Kyree Cooper, appellant, was convicted of driving while impaired by alcohol, unsafe backing of a vehicle, and driving without rear license plate illumination. Her sole claim on appeal is that there was insufficient evidence to sustain her convictions. For the reasons that follow, we shall affirm.

In analyzing the sufficiency of the evidence admitted at a bench trial to sustain a defendant’s convictions, we “review the case on both the law and the evidence,” but will not “set aside the judgment ... on the evidence unless clearly erroneous.” Maryland Rule 8-131(c). “We review sufficiency of the evidence to determine 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.” *White v. State*, 217 Md. App. 709, 713 (2014) (internal quotation marks and citation omitted).

Viewed in a light most favorable to the State, the evidence at trial established that, at approximately 2 a.m., Maryland State Trooper Garrett Graef stopped Ms. Cooper after observing her drive past him in the opposite direction with “inoperable rear registration lights.” After Ms. Cooper pulled over, Trooper Graef positioned his vehicle behind her. At that point, Ms. Cooper began backing up her vehicle, causing Trooper Graef to have to back up his vehicle to avoid a collision. When Trooper Graef approached the vehicle, he smelled a strong odor of alcohol emanating from Ms. Cooper and noticed that her speech was “extremely slurred.” He also observed a half-full bottle of Brandy on the passenger seat. Ms. Cooper was “attempting to conceal” the bottle and, when Trooper Graef indicated that he could see the bottle of alcohol, Ms. Cooper denied that it was there.

Trooper Graef asked Ms. Cooper to exit the vehicle to perform field-sobriety tests, at which point he noticed that her eyes were bloodshot, her speech remained slurred, and she “wasn’t making a whole lot of sense.” After she got out of the vehicle, Ms. Cooper was “extremely hostile” and “irate,” and repeatedly demanded that Trooper Graef either turn on his body camera or allow her to go back to her car and get her phone so that she could film him. Trooper Graef testified that he did not have a body camera and that, based on his training, he did not believe it was safe to allow Ms. Cooper to get something out of her vehicle because the vehicle had not been searched. When Trooper Graef attempted to give Ms. Cooper instructions on how to perform the field-sobriety tests, she repeatedly yelled at him, talked over him, and refused to follow his instructions. After Ms. Cooper refused to cooperate with “more than five” requests to submit to field sobriety testing, Trooper Graef placed her under arrest.

Trooper Graef then put Ms. Cooper in the front seat of his undercover vehicle, at which point she began “stomping” on his floorboard and repeatedly setting off his air horn. As a result, Trooper Graef had to remove her from his vehicle and place her in a Caroline County Sheriff’s Department vehicle that had a “cage” in the backseat. When they arrived at Maryland State Police barracks, Ms. Cooper “continuously yelled” at Trooper Graef and refused to sign the “Advice of Rights” form or submit to a breathalyzer test.

Based on this evidence, we are persuaded that there was sufficient evidence that Ms. Cooper committed the offenses of driving while impaired, improper backing, and driving without rear license plate illumination. In asserting otherwise, Ms. Cooper raises a number of claims, including that: : (1) Trooper Graef did not explain how he was able to see her

rear light as he passed by her in the opposite direction going 50 miles per hour; (2) her eyes could have been bloodshot because she was upset and crying; (3) Trooper Graef did not actually administer any field sobriety tests; (4) there was no evidence that she was driving poorly prior to the stop; (5) Trooper Graef only gave her a “minute” to decide whether to take the breathalyzer test at the State Police barracks; (6) there was no audio or video recording of the encounter; and (7) the State did not offer a photo of the bottle of brandy into evidence. However, all these contentions go to the weight of the evidence, not its sufficiency, and were for the fact-finder to resolve.

**JUDGMENTS OF THE CIRCUIT
COURT FOR CAROLINE COUNTY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**