

Phillip KELLEY v. STATE of Arkansas

CA CR 00-1281

55 S.W.3d 309

Court of Appeals of Arkansas
Division IV
Opinion delivered September 26, 2001

1. MOTIONS — DIRECTED VERDICT TREATED AS CHALLENGE TO SUFFICIENCY OF EVIDENCE — STANDARD OF REVIEW. — Motions for directed verdict are treated as challenges to sufficiency of the evidence; when a defendant challenges the sufficiency of the evidence convicting him, the evidence is viewed in light most favorable to the State; evidence is sufficient to support a conviction if the trier of fact can reach a conclusion without having to resort to speculation or conjecture and is sufficient to compel a conclusion one way or the other; it is not the appellate court's place to try issues of fact; rather, the court simply reviews the record for substantial evidence to support the jury's verdict; if there is substantial evidence supporting the conviction, it must be affirmed on appeal.
2. CRIMINAL LAW — INTENT OR STATE OF MIND — USUALLY INFERRED FROM CIRCUMSTANCES. — A criminal defendant's intent or state of mind is seldom capable of proof by direct evidence and must usually be inferred from the circumstances of the crime; therefore, circumstantial evidence of a culpable mental state may constitute substantial evidence to sustain a guilty verdict.
3. WITNESSES — CREDIBILITY — DETERMINATION LEFT TO TRIER OF FACT. — It is the responsibility of the trier of fact to determine the credibility of witnesses.
4. EVIDENCE — CONVICTION FOR OBSTRUCTING GOVERNMENTAL OPERATIONS — SUPPORTED BY SUBSTANTIAL EVIDENCE. — Where, based on the testimony at trial and the jury's assessment of the witnesses' credibility, there was sufficient evidence to support appellant's conviction for obstructing governmental operations

148 (2001). When a defendant challenges the sufficiency of the evidence convicting him, the evidence is viewed in light most favorable to the State. *Id.* Evidence is sufficient to support a conviction if the trier of fact can reach a conclusion without having to resort to speculation or conjecture and is sufficient to compel a conclusion one way or the other. *Ethyl Corp. v. Johnson*, 345 Ark. 476, 49 S.W.3d 644 (2001). It is not the appellate court's place to try issues of fact; rather, the court simply reviews the record for substantial evidence to support the jury's verdict. *Ethyl Corp.*, *supra*. If there is substantial evidence supporting the conviction, it must be affirmed on appeal. *Ward v. State*, 64 Ark. App. 120, 981 S.W.2d 96 (1998).

Appellant was charged with obstruction of government operations. A person commits the offense of obstructing governmental operations when he "knowingly obstructs, impairs, or hinders the performance of any governmental function." Ark. Code Ann. § 5-54-102(a)(1) (Repl. 1997). Arkansas Code Annotated section 5-2-202(2) (Repl. 1997) provides:

A person acts knowingly with respect to his conduct or the attendant circumstances when he is aware that his conduct is of that nature or that such circumstances exist. A person acts knowingly with respect to a result of his conduct when he is aware that it is practically certain that his conduct will cause such a result.

Unless there is use of force or a threat to use force, obstructing governmental operations is a Class C misdemeanor. Ark. Code Ann. § 5-54-102(b) (Repl. 1997). A government function means any activity which a public servant is legally authorized to undertake on behalf of any governmental unit he serves. Ark. Code Ann. § 5-54-101(4) (Repl. 1997).

[2, 3] A criminal defendant's intent or state of mind is seldom capable of proof by direct evidence and must usually be inferred from the circumstances of the crime; therefore, circumstantial evidence of a culpable mental state may constitute substantial evidence to sustain a guilty verdict. *Stegall v. State*, 340 Ark. 184, 8 S.W.3d 538 (2000). Additionally, it is the responsibility of the trier of fact to determine the credibility of witnesses. *Nelson v. State*, 344 Ark. 407, 39 S.W.3d 791(2001).

Appellant contends that the trial judge erred in denying his directed-verdict motion on the charge of obstructing governmental operations when the arresting officer testified he was on the scene

to provide backup, and dealing with appellant's conduct was the very thing that a backup officer is on the scene to provide. Officers Pena and Lewis both testified that the actions of the appellant hindered Pena's ability to administer field sobriety tests on Mr. Mendoza. Appellant's actions also interfered with Officer Lewis's ability to provide security for Officer Pena. Officer Lewis was on the job to provide backup for Officer Pena, and it was his job as an officer to ensure the protection of his fellow officer. It was established that once Kelley exited the house, Mendoza stopped cooperating with Officer Pena and began shouting profanities.

[4] Based on the testimony at trial and the jury's assessment of the witnesses' credibility, there is sufficient evidence to support appellant Kelley's conviction for obstructing governmental operations. His actions obstructed, impaired, and hindered the officers' ability to perform their governmental functions as law enforcement officers during the investigation of a DWI traffic stop. We therefore affirm.

STROUD, C.J., and GRIFFEN, J., agree.
