

# ARKANSAS COURT OF APPEALS

DIVISION IV  
No. CACR08-297

WAYNE ALAN DIERKS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** May 20, 2009

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
FOURTH DIVISION  
[NO. CR-2006-4727]

HONORABLE JOHN LANGSTON,  
JUDGE

AFFIRMED

**JOHN MAUZY PITTMAN, Judge**

Wayne Alan Dierks was convicted of committing a terroristic act for shooting a crossbow bolt through the rear window of the victim's vehicle. He was sentenced to eight years in the Arkansas Department of Correction. He argues on appeal that the evidence was not sufficient to support the finding of guilt. We affirm.

We will not second-guess credibility determinations made by the fact-finder when reviewing a challenge to the sufficiency of the evidence to sustain a criminal conviction. *Stone v. State*, 348 Ark. 661, 74 S.W.3d 591 (2002). Instead, we view the evidence in the light most favorable to the State, considering only the evidence that supports the verdict. *Id.* We will affirm the conviction if there is substantial evidence to support it. *Hughes v. State*, 74 Ark. App. 126, 46 S.W.3d 538 (2001). Substantial evidence is evidence of sufficient force and character to compel a conclusion one way or the other with reasonable certainty, without

resorting to speculation or conjecture. *Crutchfield v. State*, 306 Ark. 97, 812 S.W.2d 459 (1991).

Arkansas Code Annotated section 5-13-310(a)(1) (Supp. 2007) provides that a person commits a terroristic act if, without justification, he shoots at or in any manner projects an object at a conveyance, which is being operated or which is occupied by another person, with the purpose to cause injury to another person or damage to property. Here, it is undisputed that the victim, driving a Chevrolet Camaro, merged onto Interstate 630 and, in the process, cut off the appellant's vehicle. It is also undisputed that appellant became angry and followed the victim past the terminus of the expressway, stopping at a traffic light abreast and to the right of the Camaro. Finally, it was undisputed that appellant had a crossbow and crossbow bolts in his vehicle and that appellant pointed the crossbow at the victim during the course of the disturbance.

There was testimonial and photographic evidence to show that the Camaro's rear window was broken while at the stop light, and that the window bore a large hole in the center and a smaller, circular hole on the side closest to appellant's vehicle. The victim testified that the window broke while appellant's vehicle was next to him, and that appellant then passed him and turned right. The victim then called the police and followed appellant. The victim testified that he followed appellant to a parking lot where appellant turned his vehicle to face the victim. He also testified that he saw appellant re-cock the crossbow and point it at him.

Appellant argues that the evidence is insufficient to support a finding that he shot a crossbow bolt at the victim's vehicle because no one saw him do so and no bolt was ever found. However, in light of the evidence recited above, we think that the fact-finder could properly infer that the enraged appellant shot a bolt at the victim's vehicle with the purpose of causing damage to persons or property. The evidence is circumstantial, but circumstantial evidence will suffice where it can lead to no other reasonable hypothesis than the guilt of the accused. *Conley v. State*, 308 Ark. 70, 821 S.W.2d 783 (1992).

Appellant also argues that the evidence demonstrated that he did not shoot at the victim's vehicle because the crossbow was cocked when the police arrived and because appellant testified that it would have been impossible for him to cock the 175-pound-draw crossbow while seated in his vehicle. However, in light of the victim's testimony that he saw appellant do so, this was a question of credibility for the fact-finder to resolve. *See Gaye v. State*, 368 Ark. 39, 195 S.W.3d 370 (2006).

Affirmed.

ROBBINS and GRUBER, JJ., agree.