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IN THE
COURT OF APPEALS OF INDIANA

JEFFERY LAYTON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0811-CR-993
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda Brown, Judge
Cause No. 49F10-0802-CM-37244

May 27, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Jeffery Layton appeals his conviction for Class A misdemeanor operating a vehicle while intoxicated ("OWI"). We affirm.

Issue

The sole issue before us is whether there is sufficient evidence to support Layton's conviction.

Facts

The evidence most favorable to the conviction is that on February 11, 2008, Trooper Brian Snyder of the Indiana State Police was following a vehicle in Indianapolis that he observed cross the centerline. Trooper Snyder continued following the vehicle until it turned onto another road and crossed the centerline again. Snyder then pulled the vehicle over. Layton was driving the vehicle, and he told Trooper Snyder that he had consumed about five beers that evening. Trooper Snyder also observed that Layton smelled of alcohol and had bloodshot and glassy eyes. Layton failed all six indicators of intoxication for the horizontal gaze nystagmus ("HGN") test, and he then refused to take any more field sobriety tests. He also refused to take a chemical test after being read the Implied Consent Law.

Trooper Snyder arrested Layton, and the State charged him with Class A misdemeanor OWI. After a bench trial, Layton was convicted as charged. He now appeals.

Analysis

When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). It is the fact-finder's role, not ours, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. Id. When confronted with conflicting evidence, we must consider it in a light most favorable to the conviction. Id. We will affirm the conviction unless no reasonable fact-finder could have found the elements of the crime proven beyond a reasonable doubt. Id.

In order to convict Layton of Class A misdemeanor OWI, the State was required to prove that he operated a vehicle while intoxicated in a manner that endangered a person. See Ind. Code § 9-30-5-2. "Intoxication" includes being under the influence of alcohol "so that there is an impaired condition of thought and action and the loss of normal control of a person's faculties." I.C. § 9-13-2-86. Impairment can be established by evidence of (1) the consumption of significant amounts of alcohol; (2) impaired attention and reflexes; (3) watery or bloodshot eyes; (4) the odor of alcohol on the breath; (5) unsteady balance; (6) failure of field sobriety tests; and (7) slurred speech. Fields v. State, 888 N.E.2d 304, 307 (Ind. Ct. App. 2008) (quoting Ballinger v. State, 717 N.E.2d 939, 943 (Ind. Ct. App. 1999)). Here, Trooper Snyder testified that Layton admitted to consuming a significant quantity of alcohol (five beers), he smelled of alcohol, his eyes were bloodshot and glassy, and he clearly failed the HGN field sobriety test before refusing to take any more tests. This is sufficient to establish Layton's intoxication.

Layton also contends there was insufficient evidence that his driving endangered anyone. However, Trooper Snyder observed Layton twice cross the centerline while driving. This, coupled with evidence of Layton's impaired condition, was sufficient to prove the endangerment element of Class A misdemeanor OWI. See Dunkley v. State, 787 N.E.2d 962, 965 (Ind. Ct. App. 2003) (holding that evidence defendant had crossed the centerline, coupled with evidence of impairment, was sufficient to prove endangerment). The trial court as fact-finder was not required to accept Layton's explanation for his erratic driving. See Fields, 888 N.E.2d at 308. Nor was it required to believe him and his companion that evening regarding the amount of alcohol he had consumed. It is the fact-finder's role, not this court's, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. Staley v. State, 895 N.E.2d 1245, 1251 (Ind. Ct. App. 2008), trans. denied.

Conclusion

There is sufficient evidence to support Layton's conviction for Class A misdemeanor OWI. We affirm.

Affirmed.

BAKER, C.J., and MAY, J., concur.