

Casey Baker appeals her conviction for operating a vehicle while intoxicated as a class A misdemeanor.¹ Baker raises one issue, which we revise and restate as:

- I. Whether the trial court abused its discretion by admitting Baker's statements to the police officer;
- II. Whether the State proved the corpus delicti by independent, corroborating evidence; and
- III. Whether the evidence is sufficient to sustain Baker's conviction for operating a vehicle while intoxicated as a class A misdemeanor.

We affirm.

The relevant facts follow. In the early morning hours of August 28, 2005, officers from the Indianapolis Police Department were dispatched to a one-vehicle accident. Officer Marlon Douglas arrived at the scene quickly and discovered that a vehicle had hit a telephone pole. Baker was standing outside of the vehicle. Officer Douglas walked up to Baker and asked her, "[I]s everything okay? What happened?" Transcript at 5. Baker stated that "she was driving her vehicle westbound on 46th Street and that she saw a vehicle come out in front of her, she swerved over across the double yellow line and that's when she struck the pole." *Id.* at 7. Officer Douglas noticed that she smelled of alcohol, her balance was unsteady, and her eyes were red, bloodshot, and glassy. When Officer Douglas asked for her driver's license, Baker handed him her credit card. Another officer administered field sobriety tests, which Baker failed.

¹ Ind. Code § 9-30-5-2(b) (2004).

The State charged Baker with operating a vehicle while intoxicated as a class A misdemeanor and public intoxication as a class B misdemeanor.² During the bench trial, Baker objected to the admission of her statement to Officer Douglas. Specifically, Baker argued that her statement was inadmissible because Officer Douglas had not advised Baker of her Miranda warnings prior to asking her questions. The trial court overruled Baker's objections. The trial court found Baker guilty as charged. The trial court sentenced her to 365 days in jail suspended and 180 days of probation on the operating a vehicle while intoxicated conviction. The trial court also sentenced her to 180 days in jail suspended and 180 days of probation on the public intoxication conviction to be served concurrent with the sentence for operating a vehicle while intoxicated. Baker does not appeal her conviction for public intoxication.

I.

The first issue is whether the trial court abused its discretion by admitting Baker's statements to the police officer. We review the trial court's ruling on the admission of evidence for an abuse of discretion. Noojin v. State, 730 N.E.2d 672, 676 (Ind. 2000). We reverse only where the decision is clearly against the logic and effect of the facts and circumstances. Joyner v. State, 678 N.E.2d 386, 390 (Ind. 1997), reh'g denied.

In Miranda v. Arizona, 384 U.S. 436, 444, 86 S. Ct. 1602 (1966), the United States Supreme Court held that "when law enforcement officers question a person who has been

² Ind. Code § 7.1-5-1-3 (2004).

‘taken into custody or otherwise deprived of his freedom of action in any significant way,’ the person must first ‘be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed.’” Luna v. State, 788 N.E.2d 832, 833 (Ind. 2003). When determining whether a person was in custody or deprived of his freedom, “the ultimate inquiry is simply whether there is a ‘formal arrest or restraint on freedom of movement’ of the degree associated with a formal arrest.” Id. (quoting California v. Beheler, 463 U.S. 1121, 1125, 103 S. Ct. 3517, 3520 (1983)). This is determined by examining whether a reasonable person in similar circumstances would believe he is not free to leave. Id. (citing Cliver v. State, 666 N.E.2d 59, 66 (Ind. 1996)). “Only when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen may we conclude that a ‘seizure’ has occurred.” Id. (citing Florida v. Bostick, 501 U.S. 429, 433-434, 111 S. Ct. 2382, 2386 (1991)).

Here, Officer Douglas arrived at the scene to discover that a vehicle had hit a telephone pole. Baker was standing outside of the vehicle, and Officer Douglas asked her, “[I]s everything okay? What happened?” Transcript at 5. Baker stated that “she was driving her vehicle westbound on 46th Street and that she saw a vehicle come out in front of her, she swerved over across the double yellow line and that’s when she struck the pole.” Id. at 7. When Officer Douglas was talking to Baker, he could smell alcohol and her speech was slurred.

Baker argues that her statement is inadmissible because Officer Douglas should have given her Miranda warnings before questioning her. Baker contends that Officer Douglas “already suspected she was intoxicated before he asked her any questions.” Appellant’s Brief at 5. However, the record does not support this contention. Rather, Officer Douglas’s testimony indicates that he asked Baker a routine question and, during her response, he concluded that she might be intoxicated. Moreover, Officer Douglas was conducting a routine accident investigation when he asked the question. There is no indication that Baker was in custody at the time he asked her, “[I]s everything okay? What happened?” Transcript at 5. The trial court did not abuse its discretion by admitting Baker’s statement that she was driving the vehicle. See, e.g., J.D. v. State, 859 N.E.2d 341, 345 (Ind. 2007) (holding that the trial court did not abuse its discretion by admitting the juvenile’s statements to the officer); Clark v. State, 512 N.E.2d 223, 227 (Ind. Ct. App. 1987) (holding that the trial court did not abuse its discretion by admitting statements made by the defendant to the officer where the questions asked by the officer during an accident investigation were “routinely investigative in nature, and were non-custodial”).

II.

The next issue is whether the State proved the corpus delicti by independent, corroborating evidence. The corpus delicti rule “holds that a crime may not be proven based solely on a confession.” Malinski v. State, 794 N.E.2d 1071, 1086 (Ind. 2003). “Admission of a confession requires some independent evidence of the crime including

evidence of the specific kind of injury and evidence that the injury was caused by criminal conduct.” Id. (quoting Workman v. State, 716 N.E.2d 445, 447 (Ind. 1999)). “This evidence need not prove that a crime was committed beyond a reasonable doubt, but merely ‘provide an inference that a crime was committed,’ . . . ‘an inference that may be established by circumstantial evidence.’” Id. (quoting Workman, 716 N.E.2d at 447-448). The corpus delicti need not be established prior to admission of the confession so long as the totality of independent evidence presented at trial establishes it. Weida v. State, 693 N.E.2d 598, 600 (Ind. Ct. App. 1998), reh’g denied, trans. denied.

Baker argues that her statement to Officer Douglas was inadmissible because the State failed to prove independent evidence that a crime occurred. We addressed a similar argument in Ackerman v. State, 774 N.E.2d 970, 984 (Ind. Ct. App. 2002), reh’g denied, trans. denied, where we held:

The State established that a few minutes after discovering Ackerman’s car wrecked into a tree by the side of the road, police officers smelled a strong odor of alcohol on her and noticed that she had slurred speech. This evidence does not necessarily prove the elements of OWI beyond a reasonable doubt, but constitutes sufficient independent evidence from which the jury could infer that a crime had been committed. The State clearly satisfied the corpus delicti requirement in the instant case.

Similarly, here, the State proved that Officer Douglas was dispatched to the scene of a one-vehicle accident, that he arrived there quickly, that a vehicle had hit a pole, and that Baker was standing near the vehicle. Baker smelled of alcohol, had slurred speech and poor balance, had difficulty giving the officer her driver’s license, and failed field sobriety tests. The State presented evidence independent of Baker’s statement from

which the trial court could infer that a crime had been committed. See, e.g., Weida, 693 N.E.2d at 600 (rejecting the defendant’s argument that the trial court erred by admitting evidence of his admission that he was the driver of the truck because the State failed to present independent evidence of the corpus delicti).

III.

The next issue is whether the evidence is sufficient to sustain Baker’s conviction for operating a vehicle while intoxicated as a class A misdemeanor. When reviewing claims of insufficiency of the evidence, we do not reweigh the evidence or judge the credibility of witnesses. Jordan v. State, 656 N.E.2d 816, 817 (Ind. 1995), reh’g denied. Rather, we look to the evidence and the reasonable inferences therefrom that support the verdict. Id. We will affirm the conviction if there exists evidence of probative value from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. Id.

The offense of operating a vehicle while intoxicated as a class A misdemeanor is governed by Ind. Code § 9-30-5-2(b), which provides that “a person who operates a vehicle while intoxicated commits . . . a Class A misdemeanor if the person operates a vehicle in a manner that endangers a person.” “Intoxicated” means “under the influence of: (1) alcohol; . . . so that there is an impaired condition of thought and action and the loss of normal control of a person’s faculties.” Ind. Code § 9-13-2-86. “Intoxication may . . . be established through evidence of consumption of significant amounts of alcohol, impaired attention and reflexes, watery or bloodshot eyes, an odor of alcohol on the

breath, unsteady balance, failed field sobriety tests and slurred speech.” Dunkley v. State, 787 N.E.2d 962, 965 (Ind. Ct. App. 2003) (quoting Mann v. State, 754 N.E.2d 544, 547 (Ind. Ct. App. 2001), trans. denied). “The element of endangerment is proved by evidence that the defendant’s condition or manner of operating the vehicle could have endangered any person, including the public, the police, or the defendant.” Ashba v. State, 816 N.E.2d 862, 866-867 (Ind. Ct. App. 2004).

Baker’s only argument seems to be that the State failed to present evidence that she was the driver of the vehicle in the accident. However, we held above that the trial court did not abuse its discretion by admitting Baker’s statement to Officer Douglas that she was driving the vehicle at the time of the accident. See supra Part I & II. Given the facts of this case, we conclude that the State presented evidence of probative value from which a reasonable trier of fact could have found Baker guilty beyond a reasonable doubt of operating a vehicle while intoxicated as a class A misdemeanor. See, e.g., Ashba, 816 N.E.2d at 867 (holding that the evidence was sufficient to sustain the defendant’s conviction for operating a vehicle while intoxicated as a class A misdemeanor).

For the foregoing reasons, we affirm Baker’s conviction for operating a vehicle while intoxicated as a class A misdemeanor.

Affirmed.

MAY, J. and BAILEY, J. concur