

IN THE SUPREME COURT OF THE STATE OF NEVADA

LATIECE COOVIC WOODS A/K/A
LATIECE WILLIAMS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57566

FILED

SEP 14 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Ingersoll*
DEPUTY CLERK

ORDER OF AFFIRMANCE AND LIMITED REMAND TO CORRECT
THE JUDGMENT OF CONVICTION

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of felony failure to stop on the signal of a police officer. Eighth Judicial District Court, Clark County; Susan Johnson, Judge; Eighth Judicial District Court, Clark County; Jackie Glass, Judge.¹

Sufficiency of the evidence

Appellant Latiece Coovice Woods contends that insufficient evidence supports her conviction for felony failure to stop on the signal of a police officer because the only officer involved in the pursuit initially designated the offense as a misdemeanor and she did not drive on the sidewalks or actually injure other persons or property beyond that which she possessed. We review the evidence in the light most favorable to the prosecution and determine whether any rational juror could have found the essential elements of the crime beyond a reasonable doubt. McNair v. State, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992).

¹District Judge Susan Johnson was the trial judge and District Judge Jackie Glass was the sentencing judge.

The jury heard testimony that Police Sergeant Christopher Embree attempted to stop Woods' car by activating his siren and overhead lights, but when Woods continued to drive and reached speeds of 80 to 90 miles per hour in a 35 mile-per-hour zone, narrowly missed vehicles stopped at a red light, fishtailed, drove through the red light, and forced other vehicles to swerve or slow down, Sergeant Embree turned off the siren and lights because the pursuit had become too dangerous. Sergeant Embree later came across Woods stopped at a road intersection, activated his siren and lights, ordered her to turn off the car, and, when she failed to comply, broke the door window so that he could see her. Woods drove off at a high rate of speed, negotiated her way through the vehicles stopped at the intersection, and drove through the red light. The car was later found abandoned and when its owner, Valentin Arcilo, went to retrieve it, he found that the axle, radiator, and two windows were broken.

We conclude that a rational juror could infer from these circumstances that Woods operated the car in manner that endangered or was likely to endanger other people or other people's property. See NRS 484.348(3) (now codified as NRS 484B.550(3)(b)). It is for the jury to determine the weight and credibility to give conflicting testimony, and the jury's verdict will not be disturbed on appeal where, as here, substantial evidence supports the verdict. Bolden v. State, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

Evidentiary issues

Woods contends that the district court erred by allowing Sergeant Embree to testify that she drove recklessly and traveled at speeds of 80 to 90 miles per hour. Woods asserts that Sergeant Embree testified as an expert, he was not qualified to testify as an expert, the

State did not provide notice that he would be testifying as an expert, and his opinion that she drove “recklessly” was an improper legal conclusion. Woods did not object to the admission of this testimony. The failure to object during trial precludes appellate consideration of an issue unless it rises to the level of plain error. Gallego v. State, 117 Nev. 348, 365, 23 P.3d 227, 239 (2001); see NRS 178.602. “In conducting plain error review, we must examine whether there was error, whether the error was plain or clear, and whether the error affected the defendant’s substantial rights.” Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003) (internal quotation marks omitted). We conclude that Woods has not demonstrated the existence of error. See NRS 50.265(1); NRS 50.295; Patton v. Henrikson, 79 Nev. 197, 200, 380 P.2d 916, 917 (1963) (a lay witness may “testify as to the rate of speed of a moving vehicle”).

Woods further contends that the district court erred by allowing Arcilo to testify that he owned the car that she was driving and it was damaged. Woods argues that Arcilo’s testimony was irrelevant because (1) at the time of the incident, she had constructive possession of the car and therefore it was not the “property of another” as contemplated by 484B.550(3); (2) a proper construction of the statute compels the conclusion that the endangerment component applies to property other than that in the offending driver’s possession; and (3) there is no “definitive link” between the damage to the car and her offense. However, because NRS 484B.550(3) unambiguously addresses property ownership and not property possession, Arcilo’s testimony was relevant to show that he owned the car that Woods was driving and Woods drove the car in a manner in which it was likely to be damaged, see NRS 48.015; NRS 484B.550(3), and therefore the district court did not abuse its discretion by

admitting Arcilo's testimony, see Crowley v. State, 120 Nev. 30, 34, 83 P.3d 282, 286 (2004) ("Trial courts have considerable discretion in determining the relevance and admissibility of evidence. An appellate court should not disturb the trial court's ruling absent a clear abuse of that discretion." (quoting Atkins v. State, 112 Nev. 1122, 1127, 923 P.2d 1119, 1123 (1996), overruled on other grounds by McConnell v. State, 120 Nev. 1043, 1063, 102 P.3d 606, 620 (2004), as recognized in Bejarano v. State, 122 Nev. 1066, 1076, 146 P.3d 265, 272 (2006)).

Prosecutorial misconduct

Woods contends that the prosecutor committed misconduct during rebuttal argument by disparaging a legitimate defense tactic, injecting his personal opinion of defense counsel and the defense strategy, and reducing the State's burden of proof by suggesting to the jury that its task was to determine whether she is guilty of the crime rather than whether the State met its burden to prove beyond a reasonable doubt that she committed the crime. Woods did not object to this alleged misconduct and we conclude that she has failed to demonstrate plain error. See Valdez v. State, 124 Nev. 1172, 1190, 196 P.3d 465, 477 (2008).

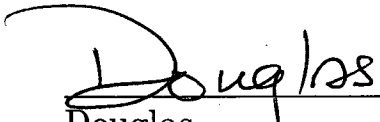
Cumulative error

Woods contends that cumulative error deprived her of a fair trial. Because Woods has failed to demonstrate any error, we conclude that her contention is without merit. See Pascua v. State, 122 Nev. 1001, 1008 n.16, 145 P.3d 1031, 1035 n.16 (2006).

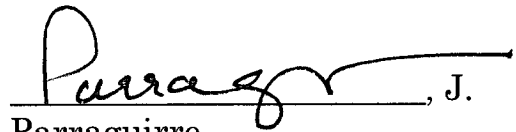
We have considered Woods' contentions and concluded that she is not entitled to relief. However, our review of the record reveals a clerical error in the judgment of conviction; it states that Woods was

convicted pursuant to a guilty plea when, in fact, she was convicted pursuant to a jury verdict. Accordingly, we

ORDER the judgment of conviction AFFIRMED and REMAND this matter to the district court for the limited purpose of correcting the judgment of conviction.


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

cc: Chief Judge, Eighth Judicial District Court
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk