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State v. Martin Respondent's Brief Dckt. 37890

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IN THE SUPREME COURT OF THE STATE OF IDAHO

COPY

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 vs.)
)
 MICHAEL PATRICK MARTIN,)
)
 Defendant-Appellant.)
)
)

No. 37890
Elmore Co. Case No.
CR-2009-4937

BRIEF OF RESPONDENT

**APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA**

HONORABLE MICHAEL E. WETHERELL
District Judge

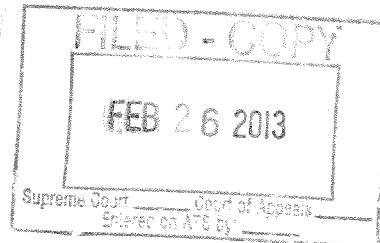
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TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES	ii
STATEMENT OF THE CASE	1
Nature Of The Case	1
Statement Of Facts And Course Of Proceedings	1
ISSUE.....	4
ARGUMENT	5
There Was Substantial Competent Evidence From Which The Jury Could Conclude, Beyond A Reasonable Doubt, That Martin Was Guilty Of Felony Driving Under The Influence	5
A. Introduction	5
B. Standard Of Review	5
C. The State Presented Sufficient Evidence To Support The Jury Verdict Finding Martin Guilty Of Felony Driving Under The Influence.....	6
CONCLUSION.....	8
CERTIFICATE OF SERVICE	9

TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE</u>
<u>State v. Hart</u> , 112 Idaho 759, 735 P.2d 1070 (Ct. App. 1987).....	5, 6
<u>State v. Knutson</u> , 121 Idaho 101, 822 P.2d 998 (Ct. App. 1991)	6
<u>State v. Lawyer</u> , 150 Idaho 170, 244 P.3d 1256 (Ct. App. 2010).....	8
<u>State v. Marsh</u> , 153 Idaho 360, 283 P.3d 107 (Ct. App. 2011).....	5
<u>State v. Miller</u> , 131 Idaho 288, 955 P.2d 603 (Ct. App. 1997).....	5, 6
<u>State v. Parton</u> , 2013 WL 427438 (2013).....	7
<u>State v. Reyes</u> , 121 Idaho 570, 826 P.2d 919 (Ct. App. 1992)	5

STATEMENT OF THE CASE

Nature Of The Case

Michael Patrick Martin appeals from the judgment of conviction entered upon jury verdicts finding him guilty of felony driving under the influence and leaving the scene of an accident. Martin contends the state presented insufficient evidence from which the jury could find him guilty of felony driving under the influence.

Statement Of Facts And Course Of Proceedings

Martin and several friends went out drinking, celebrating Cinco de Mayo. (Trial Tr., p.277, L.10 – p.279, L.19, p.433, L.24 – p.438, L.25.) At one point during the evening, Martin and his estranged girlfriend, Britta, began arguing. (Trial Tr., p.286, L.13 – p.287, L.2, p.440, L.21 – p.441, L.3, p.443, L.21 – p.444, L.18.) Britta and her friend, Juanita Ramirez, decided to leave to go get cigarettes. (Trial Tr., p.442, Ls.19-25.) Troy Tunison and James Garner went with them; Juanita was driving. (Trial Tr., p.284, Ls.14-19, p.290, Ls.10-15, p.447, Ls.10-15, p.454, Ls.1-13.)

On the way to the store, Troy noticed headlights coming up fast behind them. (Trial Tr., p.291, L.20 – p.292, L.13.) The approaching car, which was driven by Martin, “pulled up beside [them] like it was going to pass,” but instead “lined up” parallel to them such that the cars were “uncomfortably close together.” (Trial Tr., p.294, L.3 – p.295, L.7, p.296, L.14 – p.297, L.11, p.449, L.16 – p.451, L.9.) Troy testified he “felt a bump” and the next thing he knew they were “wrecking.” (Trial Tr., p.298, Ls.20-23.) Martin continued driving down the road,

but returned to the scene where he saw James lying in the road and Juanita inside the car on top of Britta; both James and Juanita died from their injuries. (See Trial Tr., p.301, L.16 – p.303, L.15; Exhibits 44, 49, 50.) Martin asked Troy to tell the police he was in the car with them when it wrecked. (Trial Tr., p.304, Ls.2-18.) Troy refused and Martin left before law enforcement or paramedics arrived. (Trial Tr., p.304, L.19 – p.305, L.5, p.327, Ls.19-22.)

Martin went home and returned a short time later with his brother's girlfriend who drove him back to the scene. (Trial Tr., p.307, Ls.17-21, p.366, L.25 – p.368, L.7.) By that time, law enforcement had arrived. (Trial Tr., p.307, Ls.17-24, p.368, Ls.8-14.) When asked why he was there, Martin told Officer Ernest Foote that he had been in the accident with his friends. (Trial Tr., p.368, Ls.16-21, p.480, L.14 – p.482, L.24.) Britta, however, told Officer Foote Martin was not in the car and that Martin was the one who "ran [them] off the road." (Trial Tr., p.458, Ls.2-7, p.485, Ls.5-16.) In a subsequent interview, Martin admitted he was not in the car with Britta, Troy, James, and Juanita, and claimed the accident occurred while the two cars were "racing." (Trial Tr., p.612, L.15 – p.613, L.20; see generally Exhibit 44.)

The state charged Martin with two counts of second-degree murder for the deaths of James Garner and Juanita Ramirez. (R., Vol. II, pp.5-6, 26-27.) A jury acquitted Martin of both counts of second-degree murder and the included offense of voluntary manslaughter. (See 5/28/2010 Tr., p.19, Ls.15-20; R., Vol. I, pp.124-126.) The jury, however, was unable to reach a verdict on vehicular

manslaughter, a second included offense submitted for its consideration. (See 5/28/2010 Tr., p.19, Ls.20-23; R., Vol. I, pp.124-126.)

Following a re-trial on two counts of vehicular manslaughter, the jury was again unable to reach a verdict. (See 5/28/2010 Tr., p.20, Ls.5-7; R., Vol. I, pp.246-247.) A third trial was conducted and, at the conclusion of that trial, the jury was unable to reach a verdict on the two counts of vehicular manslaughter, but found Martin guilty of felony driving under the influence and leaving the scene of an accident.¹ (See 5/28/2010 Tr., p.20, Ls.7-23; R., Vol. II, pp.349-356.) The court granted the state's motion to dismiss the vehicular manslaughter charges and the court imposed a unified ten-year sentence with six years fixed for felony driving under the influence and a concurrent term of five years with one year fixed for leaving the scene of an accident. (R., Vol. II, pp.362-365, 469-472, 474.) The court retained jurisdiction. (R., Vol. II, p.471.)

Martin filed a timely notice of appeal from the Judgment. (R., Vol. II, pp.469, 476-478.)

¹ Prior to the third trial, the state had charged Martin "by amended information in CR-2007-0001626 with two counts of vehicular manslaughter arising from [the] motor vehicle crash that occurred on May 6, 2007" and, in CR-2009-0004937, the state charged Martin with felony driving under the influence and leaving the scene of an accident "for events that occurred during and after the same motor vehicle crash that occurred on May 6, 2007." (R., Vol. II, p.295; see also R., Vol. I, pp.211-212 and R., Vol. II, pp.392-394.) The court granted the state's motion to consolidate the cases prior to the third trial. (R., Vol. II, pp.294-296, 395-399.)

ISSUE

Martin states the issue on appeal as:

Did the State fail to present sufficient evidence to support Mr. Martin's conviction for felony driving under the influence where the only evidence that the State provided to the jury was two prior misdemeanor judgments of conviction bearing names similar to Mr. Martin's and which were from the same county as he was currently on trial?

(Appellant's Brief, p.5.)

The state rephrases the issue as:

Was there substantial competent evidence to support the jury's verdict finding Martin guilty of felony driving under the influence?

ARGUMENT

There Was Substantial Competent Evidence From Which The Jury Could Conclude, Beyond A Reasonable Doubt, That Martin Was Guilty Of Felony Driving Under The Influence

A. Introduction

Martin asserts there was insufficient evidence presented to support the jury's verdict finding him guilty of felony driving under the influence. (Appellant's Brief, pp.6-12.) Specifically, Martin contends the two judgments of conviction offered as Exhibits 53 and 54 were inadequate because, he asserts, the state "failed to produce any evidence connecting either to [him]." (Appellant's Brief, p.7.) Martin is incorrect. Review of the evidence presented at trial and the applicable legal standards shows the state presented sufficient evidence from which the jury could find Martin guilty of felony driving under the influence.

B. Standard Of Review

"Appellate review of the sufficiency of evidence is limited in scope." State v. Marsh, 153 Idaho 360, ___, 283 P.3d 107, 112 (Ct. App. 2011). An appellate court will not set aside a judgment of conviction entered upon a jury verdict if there is substantial evidence upon which a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. State v. Miller, 131 Idaho 288, 292, 955 P.2d 603, 607 (Ct. App. 1997); State v. Reyes, 121 Idaho 570, 826 P.2d 919 (Ct. App. 1992); State v. Hart, 112 Idaho 759, 761, 735 P.2d 1070, 1072 (Ct. App. 1987). In conducting this review the appellate court will not substitute its view for that of the jury as to the credibility of witnesses, the weight to be given to the testimony, or the reasonable inferences to be drawn

from the evidence. Miller, 131 Idaho at 292, 955 P.2d at 607; State v. Knutson, 121 Idaho 101, 822 P.2d 998 (Ct. App. 1991); Hart, 112 Idaho at 761, 735 P.2d at 1072. Moreover, the facts, and inferences to be drawn from those facts, are construed in favor of upholding the jury's verdict. Miller, 131 Idaho at 292, 955 P.2d at 607; Hart, 112 Idaho at 761, 735 P.2d at 1072.

C. The State Presented Sufficient Evidence To Support The Jury Verdict Finding Martin Guilty Of Felony Driving Under The Influence

In support of its allegation that Martin was guilty of felony driving under the influence based on two prior convictions for driving under the influence within the previous ten years, the state offered, and Martin stipulated to, the admission of two certified prior judgments of conviction for driving under the influence, identified and admitted as Exhibits 53 and 54. (Trial Tr., p.906, Ls.8-24; Exhibits 53, 54.) Based on this evidence, the jury convicted Martin of felony driving under the influence. (R., Vol. II, pp.461, 462-63.)

Martin argues the evidence of felony driving under the influence was insufficient because, he asserts, although Exhibits 53 and 54 "bear[] a date of birth and an address the State failed to produce any evidence connecting either to [him]." (Appellant's Brief, p.7.) The record reveals otherwise. As Martin notes, both prior judgments include Martin's date of birth – [REDACTED]. (Exhibit 53, p.1; Exhibit 54, p.1.) Exhibits 51A and 52, which were admitted to establish the chain of custody for the blood sample taken from Martin to ascertain his blood alcohol content, also include Martin's date of birth – [REDACTED]. (Trial Tr., p.526, Ls.10-20 (admission of Exhibit 51A), p.789, L.20 – p.790, L.2 (admission

of Exhibit 52); Exhibits 51A, 52.) In addition, an audio of Martin's interview with law enforcement was admitted as Exhibit 44. On that audio, Martin is asked for his birth date, and he responds: "██████." (Trial Tr., p.615, Ls.5-21; Exhibit 44, Track 1.) Evidence that a judgment was previously entered against an individual with the exact same name and exact same birthday as Martin was sufficient for the jury to conclude, beyond a reasonable doubt, that Martin was the same person formerly convicted pursuant to the judgments admitted as Exhibits 53 and 54. The Idaho Supreme Court's recent opinion in State v. Parton, 2013 WL 427438 (2013), is on point.

In Parton, the defendant argued "that, as a matter of law, the same name and same date of birth are not sufficient to prove that Defendant was the person convicted in the [prior] judgment." Parton, 2013 WL at *11. After noting the legal standards applicable to sufficiency of the evidence claims, the Court rejected Parton's argument, explaining:

The [prior] judgment was admitted without objection. The name of the defendant on the judgment was "DARIN WILLIAM PARTON" and his date of birth was "██████," which are identical to Defendant's full name and date of birth. No contradictory evidence was presented, nor was there any argument that Defendant had a common name. The jury was not required to reach its verdict beyond any possible doubt. It was only required to conclude, beyond a reasonable doubt, that the Darin William Parton named in the [prior] judgment was the same Darin William Parton on trial in this case. The jury's verdict finding that it was is supported by substantial evidence.

Parton at *12.

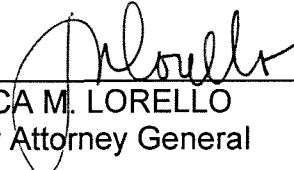
In addition to the evidence establishing the same name and date of birth, the prior judgments "involve[d] the same crime committed in the same county."

State v. Lawyer, 150 Idaho 170, 174, 244 P.3d 1256, 1260 (Ct. App. 2010) (examining the sufficiency of the evidence for felony DUI and noting “the pleadings of the prior conviction reflect the same name and date of birth and further involve the same crime committed in the same county,” a combination which “[o]ther states have found” sufficient). Martin has failed to establish the state presented insufficient evidence to support the jury’s verdict finding him guilty of felony driving under the influence.

CONCLUSION

The state respectfully requests that this Court affirm Martin’s conviction for felony driving under the influence.

DATED this 26th day of February 2013.



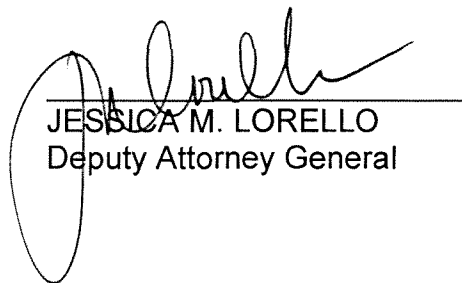
JESSICA M. LORELLO
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 26th day of February 2013, served a true and correct copy of the attached BRIEF OF RESPONDENT by causing a copy addressed to:

SARA B. THOMAS
STATE APPELLATE PUBLIC DEFENDER

to be placed in The State Appellate Public Defender's basket located in the Idaho Supreme Court Clerk's office.



JESSICA M. LORELLO
Deputy Attorney General