

**IN THE COURT OF APPEALS OF IOWA**

No. 6-754 / 06-0426  
Filed October 25, 2006

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**TIMOTHY KEITH SAATHOFF,**  
Defendant-Appellant.

---

Appeal from the Iowa District Court for Scott County, Mary Howes, District Associate Judge.

Defendant appeals, following conviction and sentence, for operating while intoxicated in violation of Iowa Code section 321J.2(1)(a) and (2)(a) (2005).

**AFFIRMED.**

Douglas C. Scovil of Ruud, Scovil & Marsh, Rock Island, Illinois, for appellant.

Thomas J. Miller, Attorney General, Robert P. Ewald, Assistant Attorney General, William E. Davis, County Attorney, and Alan Havercamp, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

**ZIMMER, J.**

Timothy Saathoff appeals following judgment and sentence for operating while intoxicated, in violation of Iowa Code section 321J.2(1)(a) and (2)(a) (2005). He asserts the evidence in the record is insufficient to support his conviction. We affirm his conviction and sentence.

At approximately 3:00 a.m. on June 30, 2005, Saathoff, an off-duty police officer, reported that his pickup had been side-swiped by a semi while he was driving on Interstate 80 in Illinois. Saathoff's vehicle suffered severe passenger-side damage, including a shattered passenger window. Saathoff informed law enforcement officers that he was following the semi into Iowa.

Le Clair, Iowa, Police Officer Rocco Marrari located and pulled over the two vehicles. Later, Illinois State Police Officer Jason Wilson, Bettendorf, Iowa, Police Officer Jeffrey Scott, and Scott County Sheriff's Deputy Michael Erwin arrived at the scene in separate vehicles. Law enforcement could not determine which driver was at fault for the accident.<sup>1</sup> However, Saathoff was arrested at the location where the vehicles were stopped and charged with operating while intoxicated.

Saathoff waived his right to a jury trial, and the matter was tried to the court. After hearing two days of testimony, the district court issued a written ruling finding Saathoff guilty as charged. Saathoff then filed a motion for a new trial, which was denied by the court. The court sentenced Saathoff to 120 days in jail, with all but two days suspended, placed him on supervised probation, and

---

<sup>1</sup> Saathoff indicated the semi had swerved and hit his vehicle. The driver of the semi was unaware there had been any contact between the semi and Saathoff's pickup.

imposed a fine. Saathoff appeals, challenging the sufficiency of the evidence to support his conviction.

We review a challenge to the sufficiency of the evidence for correction of errors at law. *State v. Turner*, 630 N.W.2d 601, 610 (Iowa 2001). A verdict is upheld if supported by substantial evidence, which means evidence sufficient to convince a rational trier of fact, beyond a reasonable doubt, of the defendant's guilt. *Id.* We view the totality of the record in the light most favorable to the State, drawing any and all legitimate inferences that can be reasonably deduced from the evidence. *State v. Williams*, 574 N.W.2d 293, 296 (Iowa 1998). Upon such review, we are mindful that it is the role of the district court, as fact finder, to resolve conflicts in the evidence, weigh the evidence, assess the credibility of witnesses, and determine the plausibility of explanations. *See State v. Williams*, 695 N.W.2d 23, 28 (Iowa 2005). Application of the foregoing standards requires us to uphold Saathoff's conviction.

The State was required to prove, beyond a reasonable doubt, that Saathoff had operated his motor vehicle “[w]hile under the influence of an alcoholic beverage . . . .” Iowa Code § 321J.2(1)(a). Here, the trial court heard evidence that Saathoff had red, watery eyes; had a smell of alcohol on his breath; acted “shady” and tried to keep his distance from officers; admitted to drinking earlier in the evening, but stated he did not know how much alcohol he had consumed; could not recall when the accident had taken place; failed two horizontal gaze nystagmus (HGN) field sobriety tests; and refused to give a breath specimen. In addition, the district court viewed Saathoff's decision to follow the semi in his severely damaged vehicle, rather than simply reporting the

incident and license plate number of the semi to law enforcement, as a sign of impaired judgment.

In support of his claim that the evidence was insufficient to support his conviction, Saathoff points to other evidence that, if believed, could give rise to reasonable doubt. Much of this evidence is found in Saathoff's own testimony, where he attempted to rebut the State's evidence based on his own experience as a police officer, and offered neutral explanations for certain inculpatory evidence offered by the State. For example, Saathoff criticized the manner in which both HGN tests were conducted; indicated the amount of alcohol he purported to consume that night was insufficient to place him over the legal limit; and explained he refused a breath specimen because, in his opinion, law enforcement did not have probable cause to make an arrest or request a breath test. He also testified that he suffered from a preexisting natural nystagmus, but was unaware of its existence at the time of his arrest. He claimed that his red, watery eyes could have been the result of "anything" including "foreign bodies," such as the glass that had blown into his eyes when the passenger window shattered, but which he had managed to remove by "rubbing his eyes." In addition, Saathoff points out that some officers did not notice that he had red or watery eyes or smell alcohol on his breath; that there was no other physical evidence of impairment, such as slurred speech, instability, loss of balance, or erratic driving; and that he passed a one-leg-stand field sobriety test.

Saathoff asserts, essentially, that the evidence indicative of his guilt simply cannot support a conviction in light of the significant amount of contrary evidence presented during his trial. However, much of the exculpatory evidence was

either in conflict with evidence presented by the State, or supported by no more than Saathoff's own testimony. As previously noted, weighing the evidence and assessing the credibility of the evidence is a matter for the district court. *Williams*, 695 N.W.2d at 28. Here, the district court made clear and repeated findings that Saathoff was not credible in his testimony, and placed greater weight upon certain items of evidence that were indicative of Saathoff's guilt.

The question for this court is not whether we would have found Saathoff guilty beyond a reasonable doubt. It is whether, having entrusted questions of weight and credibility to the district court, and viewing the evidence in the light most favorable to the State, a reasonable trier of fact could have found Saathoff guilty beyond a reasonable doubt. Under the record in this case, we must answer this question in the affirmative. We accordingly affirm Saathoff's conviction and sentence.

**AFFIRMED.**