

NOTICE

Memorandum decisions of this court do not create legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited as binding authority for any proposition of law.

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

ARVIN MORSE KANGAS,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-11351
Trial Court No. 4FA-10-4608 CR

MEMORANDUM OPINION

No. 6136 — January 28, 2015

Appeal from the District Court, Fourth Judicial District,
Fairbanks, Patrick S. Hammers, Judge.

Appearances: Jane B. Martinez, Law Office of Jane B. Martinez, LLC, under contract with the Public Defender Agency, and Quinlan Steiner, Public Defender, Anchorage, for the Appellant. Patricia L. Haines, Assistant District Attorney, Fairbanks, and Michael C. Geraghty, Attorney General, Juneau, for the Appellee.

Before: Mannheimer, Chief Judge, and Allard and Kossler, Judges.

PER CURIAM.

A jury convicted Arvin Morse Kangas of driving under the influence and refusal to submit to a breath test. Kangas appeals his conviction for DUI, arguing the evidence was insufficient to show that he was under the influence of alcohol.

Because Kangas challenges the sufficiency of the evidence supporting his conviction, we are obliged to view the evidence in the light most favorable to sustaining the jury's verdict.¹ We therefore recite the evidence in that light.

On October 26, 2010, at 2 a.m., Alaska State Trooper Robert Bressler responded to a report of a vehicle stopped in the roadway on the Mitchell Expressway in Fairbanks. He found a Chevy Tahoe stopped in the fast lane of the expressway. The driver and only occupant, Kangas, was asleep in the driver's seat with the keys in the ignition and the vehicle running.

When Trooper Bressler woke Kangas, he noted the odor of alcohol. He also observed that Kangas had slurred speech, poor dexterity, and watery, bloodshot eyes. The trooper had Kangas put the vehicle in park because when Kangas took his foot off the brake, it began to move. Trooper Bressler asked Kangas for his driver's license, and Kangas handed him a tribal identification card instead. When Kangas got out of the vehicle, Bressler had to hold him up. Because of his inability to stand, Kangas could not perform most of the field sobriety tests. Bressler briefly administered the horizontal gaze nystagmus test to Kangas, noting a lack of smooth pursuit and distinct and sustained nystagmus in Kangas's eyes. Later, during the DUI processing period, Kangas fell asleep, and the trooper had to wake him up. Kangas was disruptive and profane throughout the processing.

The evidence is sufficient to support a conviction if reasonable jurors could find the defendant's guilt established beyond a reasonable doubt.² In Kangas's case, the trooper's testimony about his observations was sufficient to support the jury's conclusion

¹ See *Johnson v. State*, 188 P.3d 700, 702 (Alaska App. 2008).

² *Morrell v. State*, 216 P.3d 574, 576 (Alaska App. 2009).

that Kangas was impaired by alcohol. We therefore conclude that the evidence presented at Kangas's trial is sufficient to support his conviction.

We AFFIRM the judgment of the district court.