COURT OF APPEAL FOR ONTARIO

CITATION: R. v. Eadie, 2019 ONCA 739
DATE: 20190920
DOCKET: C65958

Hourigan, Brown and Paciocco JJ.A.

BETWEEN

Her Majesty the Queen

Respondent

and

Daniel Eadie

Appellant

Jessica Zita, for the appellant

Adam Wheeler, for the respondent

Heard: September 17, 2019

On appeal from the conviction entered on February 23, 2018 and the sentence imposed on April 11, 2018 by Justice H. K. O'Connell of the Superior Court of Justice, sitting without a jury.

REASONS FOR DECISION

[1] Mr. Daniel Eadie was convicted in a judge alone trial of dangerous driving causing bodily harm, contrary to *Criminal Code*, s. 249(1)(a), and failing to stop his vehicle knowing that bodily harm had been caused to another, contrary to *Criminal Code*, s. 252(1.2). On those charges, he was sentenced to 32 months incarceration less presentence custody, equivalent to 126 days. He was acquitted of aggravated assault, contrary to *Criminal Code*, s. 268.

[2] All of the charges relate to a November 14, 2015 incident in which a Dodge pickup truck operated by Mr. Eadie left the road and ran over Ms. Simone Murphy, seriously injuring her. The vehicle also ran into a tree before moving back onto the roadway. This was confirmed by evidence of the condition of the tree, the vehicle, tire marks, and inferences from what witnesses heard.

[3] Mr. Eadie did not contest that immediately before Ms. Murphy was run over, he and Ms. Murphy had been in a confrontation. Ms. Murphy had accepted a ride from Mr. Eadie after drinking together in a bar, a dispute occurred, and Ms. Murphy either escaped from the truck or was pushed out. The trial judge found that how she exited the vehicle did not matter. What mattered is that Mr. Eadie admitted in his police statement, which was received into evidence, that once Ms. Murphy was outside of the truck he “gunned it” and “got outta of there real, real fast”. Mr. Eadie said in this statement that he did not know he had struck her. When asked, however, “[d]o you remember striking a tree?” he said, “I don’t know. The door

slammed shut pretty quick, but I didn't know if she slammed it shut, or if it hit something."

[4] Mr. Eadie appeals his convictions and his sentence. Mr. Eadie contends that the trial judge erred in law: (1) in failing to consider the principles in *W.(D.)*; (2) in failing to provide sufficient reasons; and (3) in convicting him of dangerous driving causing bodily harm without thoroughly stating the law or addressing the *mens rea* component of the offence. He urges that the sentence imposed was also demonstrably unfit and he seeks leave to appeal that sentence.

[5] We dismissed the appeal at the end of the hearing with reasons to follow. These are our reasons.

CONVICTION APPEAL

[6] It is convenient to begin with the sufficiency of reasons ground of appeal related to the dangerous driving causing bodily harm charge. We reject this ground of appeal because the trial judge's path to conviction is clear, and the reasons are more than adequate to enable appellate review. The facts found by the trial judge, summarized above, make out an obvious case of dangerous driving. Ms. Murphy was clearly intoxicated. As the trial judge put it, Mr. Eadie's rapid acceleration immediately after Ms. Murphy left the vehicle, "such that he ended up on the boulevard, hit the tree, ran over Ms. Murphy in the meantime and took off … is a marked departure from a prudent driver's actions in similar situated circumstances

viewed objectively and subjectively." Additionally, the trial judge found, as he was entitled to, that the only reasonable inference from the evidence is that this driving was dangerous and caused Ms. Murphy's injuries.

[7] What has just been said also puts to rest the third ground of conviction appeal. The trial judge's description of the law of dangerous driving, including the *mens rea* requirement of the offence, was adequate. It is obvious that the trial judge grasped the law and applied it correctly.

[8] The trial judge's reasons were also sufficient on the fail to stop charge. He said:

> There can be no doubt that Mr. Eadie was on full notice that there had been an accident, of sorts, which count one of the indictment speaks to and that there was every likelihood that he had hit Ms. Simone Murphy and then he left the scene of the accident to avoid civil or criminal liability, which is why I found him also guilty on count one of the indictment.

[9] Although the trial judge did not use the term "wilful blindness", it is clear from these comments that this was the basis for conviction – Mr. Eadie knew there was every likelihood that he had hit Ms. Murphy yet he chose to flee to avoid civil or criminal liability. This finding is amply supported in the reasons for decision by reference to Mr. Eadie's admission when asked if he knew he hit a tree that, "[t]he door slammed shut pretty quick, but I didn't know if she slammed it, or if it hit something", coupled with witness testimony that two thumps could be heard.

[10] Moreover, neither the failure to stop conviction nor the dangerous driving causing bodily harm conviction raised issues of credibility that required reference to *W.(D.)*. Mr. Eadie's admission to what amounts to wilful blindness makes his denial of knowledge immaterial, and all other findings made by the trial judge are manifestly supported by uncontested evidence. The *W.(D.)* ground of appeal is also rejected.

[11] We therefore dismiss the conviction appeal.

SENTENCE APPEAL

[12] The sentence appeal fares no better. The trial judge arrived at a suitable sentence without committing any errors of principle.

[13] The appeal is therefore dismissed.

"C.W. Hourigan J.A."
"David Brown J.A."
"David M. Paciocco J.A."