Missouri Court of Appeals
Southern District

In Division

STATE OF MISSOURI,

Respondent,

v.

ADMIR KULOVAC,

Appellant.

Filed: August 31, 2026

Case Number SD39130

Missouri Court of Appeals
Southern District

APPEAL FROM THE CIRCUIT COURT OF JASPER COUNTY

Honorable David Mouton, Judge

AFFIRMED

Admir Kulovac ("Defendant") appeals his conviction of first-degree involuntary manslaughter, arguing the State failed to identify him as the driver who caused the collision and to establish the requisite reckless mental state for conviction under RSMo section 565.024.[1] We affirm.

[1] All statutory references are to RSMo Cum. Supp. (2017).

Background

On a clear, sunny day in June of 2023, a gold tractor-trailer was traveling on Interstate 44 toward a construction zone. Traffic approaching the construction zone was completely stopped in the right lane, while traffic in the left lane slowed to a near stop. As the tractor-trailer entered the construction zone it collided with the rear of Victim's stopped vehicle, resulting in a multivehicle crash that killed Victim.

The State charged Defendant with first degree involuntary manslaughter. Defendant waived his right to a jury trial. At the bench trial, Trooper Braiden Vaught testified that multiple lighted and orange construction-warning signs were located along the approximately six-mile approach to the construction site. Winsley Dombroski, an eyewitness to the crash, estimated the tractor-trailer was traveling faster than 50 miles per hour when it collided with Victim's stopped vehicle. She testified that she saw neither brake lights nor a reduction in the tractor-trailer's speed. Trooper Michael Eden, a crash-scene reconstructionist, opined from his reconstruction of the crash that the tractor-trailer was traveling more than 60 miles per hour and that there were no skid marks or black marks indicating the tractor-trailer had attempted to stop. Defendant elected not to testify.

Following the bench trial, the court found Defendant guilty of first-degree involuntary manslaughter and sentenced him to eight years' imprisonment. This appeal follows.

Standard of Review

"When reviewing a claim challenging the sufficiency of the evidence, this Court must make a *de novo* determination whether the evidence is sufficient to permit a reasonable fact-finder to find the necessary facts beyond a reasonable doubt." ***State v. Peters***, 729 S.W.3d 243, 246 (Mo. banc 2026) (internal quotation marks omitted). In doing so, we "accept as true all evidence tending to prove those facts and will draw all reasonable inferences in favor of finding those facts." ***State v. Nowicki***, 682 S.W.3d 410, 414 (Mo. banc 2024). "Circumstantial evidence alone may be sufficient to support a conviction." ***State v. Jackson***, 439 S.W.3d 276, 278 (Mo.App. 2014).

Analysis

Point One - Identification

In his first point, Defendant argues the evidence was insufficient to establish that he was the driver of the tractor-trailer because no one identified him as the driver. "An in-court identification, however, is not always required." ***State v. Erickson***, 404 S.W.3d 394, 399 (Mo.App. 2013). Rather, we determine whether, "'from all the evidence, the [fact-finder] could have drawn a reasonable inference that the defendant was the perpetrator of the crime.'" ***Id.*** (quoting ***State v. Edwards***, 365 S.W.3d 240, 251 (Mo.App. 2012)).

At trial, the State presented circumstantial evidence from which the trial court could find Defendant was the driver of the tractor-trailer. Trooper Travon Smith testified that, upon arriving at the scene, he saw an individual sitting in the tractor-trailer with a

facial injury. When asked specifically about Defendant's condition, Smith testified that Defendant was "strapped—seatbelt on—and he had a facial injury."

The court also admitted the "human factors" portion of Trooper Eden's crash-reconstruction report. The report identified the driver of the tractor-trailer as a 46-year-old male with a valid Iowa Class A commercial driver's license and indicated there were no passengers in the tractor-trailer.

The State asserted that, in addition to the circumstantial evidence, defense counsel's concession of Defendant's fault during his opening statement constituted a judicial admission. Missouri courts have held "a voluntary judicial admission of fact […] acts 'as a substitute for evidence and dispenses with proof of the actual fact and the admission is conclusive on him for the purposes of the case,'" even when it is made by counsel during opening statements or closing arguments. ***State v. Gibbs***, 664 S.W.3d 742, 747 (Mo.App. 2023) (denying a sufficiency of the evidence appeal when counsel admitted in opening statement the defendant was required to register as a sex offender); *see also* ***State v. George***, 606 S.W.3d 687, 688 (Mo.App. 2020) (denying a sufficiency-of-the-evidence appeal where defendant's counsel admitted defendant was intoxicated at the time of the events in opening statement), *and see* ***State v. Olinger***, 396 S.W.2d 617, 621 (Mo. 1965) (denying a sufficiency of the evidence appeal where defendant's counsel admitted defendant committed a burglary in opening statement and closing argument).

Defendant relies on ***State v. Forrest***, 183 S.W.3d 218, 226 (Mo. banc 2006), for the proposition that statements made by counsel during opening statements and closing arguments are not evidence. We agree. The State, however, does not contend defense counsel's statement constituted evidence of Defendant's identity. Rather, the State argues the statement constituted a judicial admission that dispensed with the need for proof of the admitted fact. ***Forrest*** did not address the judicial-admission doctrine and, therefore, does not control that issue.

Viewed in the light most favorable to the judgment, the circumstantial evidence was sufficient for the trial court to find beyond a reasonable doubt that Defendant was the driver of the tractor-trailer. Defense counsel's concession that the collision was Defendant's fault provides additional support for that conclusion.

Point One is denied.

Point Two - Recklessness

In his second point, Defendant argues the evidence was insufficient to establish that he recklessly caused Victim's death because the State failed to prove he consciously disregarded a substantial and unjustifiable risk. A person commits first-degree involuntary manslaughter when he "recklessly causes the death of another person." Section 565.024.1. "A person 'acts recklessly' or is reckless when he or she consciously disregards a substantial and unjustifiable risk" under the circumstances. Section 562.016.4. In contrast, a person acts with criminal negligence when he "fails to be aware

of a substantial and unjustifiable risk." Section 562.016.5. Second-degree involuntary manslaughter requires a criminally negligent mental state. Section 565.027.1. Thus, the distinction pertinent to Defendant's claim is whether the evidence permitted the trial court to find that Defendant consciously disregarded the substantial and unjustifiable risk, rather than merely failed to perceive it.

Although excessive speed alone does not establish criminal recklessness, "speed combined with other circumstances can satisfy this element of an offense." ***State v. Morrison***, 174 S.W.3d 646, 649 (Mo.App. 2005). In ***Morrison***, evidence that the defendant drove at least 72 miles per hour in a 45-mile-per-hour zone and failed to take evasive action until he was within 35 feet of a vehicle he had observed from a substantial distance was sufficient to support a finding of recklessness. ***Id.*** at 649-50.

Here, as in ***Morrison***, the State presented evidence of speed together with additional circumstances from which the fact-finder could infer conscious disregard of a substantial and unjustifiable risk. Multiple construction-warning signs were located along the approach to the construction site. Surrounding traffic had either slowed or stopped due to congestion on the road. Dombroski estimated the tractor-trailer was traveling faster than 50 mph and observed neither brake lights nor a reduction in speed. Trooper Eden separately opined, based on his reconstruction of the crash, that the tractor-trailer was traveling in excess of 60 mph, and the physical evidence revealed no skid marks indicating an attempt to stop. The evidence revealed no mechanical problem

with the tractor-trailer that contributed to the crash. In finding the Defendant guilty, the trial court emphasized "no evidence [existed to suggest] Defendant, at any time, tried to slow, stop, or swerve his vehicle" to avoid collision.

Viewed most favorably to the judgment, the cumulative circumstances permitted the trial court to find that Defendant consciously disregarded the substantial and unjustifiable risk presented by the traffic conditions, rather than merely failed to perceive that risk.

Point Two is denied.

Conclusion

The trial court's judgment is affirmed.

BECKY J. WEST, C.J. – OPINION AUTHOR

JACK A. L. GOODMAN, J. – CONCURS

JENNIFER R. GROWCOCK, J. – CONCURS