COURT OF APPEALS OF VIRGINIA

Record No. 1471-25-2

STEVE T. DAVIS
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Athey, White and Senior Judge Petty

Opinion Issued October 27, 2026*

FROM THE CIRCUIT COURT OF LOUISA COUNTY
Timothy K. Sanner, Judge

(D. Michael Caudill; Caudill & Kammerer, LLC, on brief), for appellant. Appellant submitting on brief.

(Jason S. Miyares,[1] Attorney General; Austin E. Deramo, Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION
PER CURIAM

The Circuit Court of Louisa County ("trial court") convicted Steve T. Davis ("Davis") for unlawfully possessing a Schedule I controlled substance and for driving a vehicle on a suspended license. Davis was sentenced to 4 years and 12 months' incarceration, with all but 15 months suspended. On appeal, Davis challenges the sufficiency of the evidence supporting both convictions. Finding no error, we affirm the trial court's judgment.[2]

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

[1] Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

[2] Having examined the briefs and record in this case, the panel unanimously agrees that oral argument is unnecessary because "the appeal is wholly without merit." *See* Code § 17.1-403(ii)(a); Rule 5A:27(a).

I. BACKGROUND

Around midnight on August 9, 2023, Louisa County Deputy Sheriff Jonathan Said ("Deputy Said") was dispatched to respond to a report of an unconscious, unresponsive individual located in a vehicle parked at the Gum Springs Pit Stop. Upon arrival, Deputy Said and a Virginia State Trooper observed an unconscious male who matched the report's description. Law enforcement subsequently identified the unconscious male subject as Davis. Davis was later arrested after law enforcement found a baggie containing controlled substances inside of his vehicle. Davis was subsequently charged with unlawfully and feloniously possessing a Schedule I controlled substance, Bromazolam. He was also charged with driving a vehicle following revocation of his driver's license.

At trial, Deputy Said testified concerning his interaction with Davis on the night in question. He testified that "[t]he state trooper opened the driver's side door attempting to wake up the defendant. I opened the passenger side door. The trooper was able to get him awake when he attempted to wake him up." Deputy Said also testified that as the trooper opened the door to rouse Davis, both officers observed "a small baggie with [black] pandas on it" located in the front center console's cupholder. Deputy Said further testified that, once Davis awoke, the officers detained him and took him into custody after advising him of his Miranda rights. Deputy Said recalled that as he removed the baggie from the cup holder, he observed "small pills" inside. Deputy Said recounted that when he asked Davis about the pills, Davis answered that the pills were "his Xanax." Davis did not specify whether the drugs were prescribed to him or how they were obtained.

The evidence recovered from the vehicle was subsequently transported to the Virginia Department of Forensic Science (VDFS) for analysis. A certificate of analysis prepared by VDFS was subsequently entered in evidence at trial without objection, reflecting that the pills in

the zip lock baggie recovered from the vehicle contained Bromazolam, a Schedule I controlled substance prohibited under Code § 54.1-3446. Analysis of the white tablets from the bag with panda logos showed "the physical characteristics, including shape, color[,] and manufacturer's markings, . . . consistent with a Schedule IV pharmaceutical preparation containing Alprazolam" while the dosage tested to contain Bromazolam.

Deputy Said also testified that he asked Davis how he arrived at that location and that Davis "admitted that he drove to the Gum Springs Pit Stop." During cross examination, Deputy Said confirmed that he did not personally observe Davis driving that night. Deputy Said further acknowledged that Davis was cooperative and did not appear to be under the influence of drugs or alcohol. Evidence that Davis's license was revoked as of February 23, 2022, for multiple convictions of driving under the influence and the fact that his license was still suspended when the police encountered him on August 9, 2023, was also entered in evidence without objection. Following closing statements, Davis was convicted on both charges and sentenced to 4 years and 12 months' incarceration with all but 15 months suspended. Davis appealed.

II. ANALYSIS

A. *Standard of Review*

"When an appellate court reviews the sufficiency of the evidence underlying a criminal conviction, its role is a limited one." *Commonwealth v. Garrick*, 303 Va. 176, 182 (2024). Considering the evidence from that vantage point, "[a]n appellate court does not 'ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable doubt.'" *Commonwealth v. Barney*, 302 Va. 84, 97 (2023) (alteration in original) (quoting *Williams v. Commonwealth*, 278 Va. 190, 193 (2009)). "If there is evidentiary support for the conviction, 'the reviewing court is not permitted to substitute its own judgment, even if its opinion might differ from the conclusions reached by the finder of fact at the trial.'" *Chavez v. Commonwealth*,

69 Va. App. 149, 161 (2018) (quoting *Banks v. Commonwealth*, 67 Va. App. 273, 288 (2017)). Instead, the relevant inquiry becomes: "after reviewing the evidence in the light most favorable to the prosecution, whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Barney*, 302 Va. at 97 (quoting *Sullivan v. Commonwealth*, 280 Va. 672, 676 (2010)). "When reviewing the sufficiency of the evidence, '[t]he judgment of the trial court is presumed correct and will not be disturbed unless it is plainly wrong or without evidence to support it.'" *Smith v. Commonwealth*, 296 Va. 450, 460 (2018) (alteration in original) (quoting *Commonwealth v. Perkins*, 295 Va. 323, 327 (2018)).

Irrespective of whether a fact finder could have found facts or drawn inferences to reach a different conclusion, the appellate court may not reevaluate the evidence in support of the losing party when the fact finder determined otherwise. *Garrick*, 303 Va. at 182.

B. *The evidence was sufficient to support Davis's conviction for possessing a controlled substance.*

Davis claims that the Commonwealth failed to affirmatively prove that he did not have a valid prescription for Xanax. Hence, he contends, he was not cognizant of the character of the drugs in his possession. We disagree.

The defendant—not the Commonwealth—bears the burden to establish that he has a valid prescription and therefore lawfully possesses a controlled substance. Code § 18.2-263. Hence, the exception to unlawful possession claimed by Davis operates as an "affirmative defense" to be demonstrated by the defendant, not a "negative element," which must be proven by the prosecution. *See Williams v. Commonwealth*, 57 Va. App. 341, 348 (2010).

This issue was squarely resolved in *Williams*. *Id.* at 354. Because Williams was convicted of unlawfully possessing controlled drugs without a prescription, *Williams* is controlling. *Id.* at 346-47. In *Williams*, we affirmed the trial court's decision, clarifying "the presence of a valid prescription is an affirmative defense for which the appellant has the burden

of going forward with supporting evidence." *Id.* at 353. Hence, the existence of a valid prescription relates to a fact that would be "solely within the knowledge of the accused." *Id.* at 351. We further noted that if we were to accept Williams's contention that the Commonwealth must prove that he had no valid prescription, the offense would be "virtually unprovable." *Id.* We further observed that "requiring the Commonwealth to prove this negative would undermine the general prohibition intended by the legislature" before concluding that the defendant bears the burden of producing supporting evidence to find that a valid prescription exists. *Id.* at 353.

Here, Davis's challenge is identical to the failed challenge in *Williams*. Like Williams, Davis failed to provide evidence of a valid prescription at trial. Hence, his failure to produce a valid prescription does not shift the onus to the Commonwealth to negate a potential affirmative defense he never raised. Thus, we conclude that the prescription-provision is an affirmative defense, and since Davis did not present evidence to that effect at trial, a rational factfinder could have reasonably concluded that Davis did not possess the controlled substance pursuant to a valid prescription. Accordingly, we affirm the trial court's judgment.

C. *The evidence was sufficient to support Davis's conviction for driving on a suspended driver's license.*

Davis further contends on appeal that the Commonwealth failed to adduce sufficient evidence to prove that he drove his vehicle to the Gum Springs Pit Stop while his license was suspended. In support, Davis reasons that, although he admitted that he drove his vehicle to the Gum Springs Pit Stop, the Commonwealth failed to prove that he drove his vehicle while his license was suspended. We disagree.

A person commits misdemeanor driving on a suspended license when he "driv[es] a motor vehicle . . . while his license is revoked" and "such driving does not of itself endanger the life, limb, or property of another." Code § 46.2-391(D).

"In a bench trial, the trial judge's 'major role is the determination of fact, and with experience in fulfilling that role comes expertise.'" *Blankenship v. Commonwealth*, 71 Va. App. 608, 619 (2020) (quoting *Haskins v. Commonwealth*, 44 Va. App. 1, 11 (2004)). "Under our standard of review, a 'factfinder may "draw reasonable inferences from basic facts to ultimate facts,"' and those inferences cannot be upended on appeal unless we deem them 'so attenuated that they "push 'into the realm of *non sequitur*.'"'" *Perkins*, 295 Va. at 332 (quoting *Bowman v. Commonwealth*, 290 Va. 492, 500 (2015)).

The factfinder may consider circumstantial evidence as having the same weight as direct evidence when it is sufficient to convince the factfinder that guilt is the last standing conclusion upon excluding all other reasonable alternatives. *Kelley v. Commonwealth*, 69 Va. App. 617, 629 (2019) (quoting *Pijor v. Commonwealth*, 294 Va. 502, 512 (2017)). "While a factfinder may not arbitrarily disregard a reasonable doubt, whether 'the hypothesis of innocence is reasonable is itself a "question of fact," subject to deferential appellate review.'" *Burton v. Commonwealth*, 58 Va. App. 274, 285-86 (2011) (quoting *Clanton v. Commonwealth*, 53 Va. App. 561, 572-73 (2009) (en banc)). However,

> [i]f, based on the evidence presented, a jury *reasonably* rejects a proffered hypothesis of innocence, the hypothesis is not a reasonable one. So long as the factfinder's rejection of a proposed hypothesis as unreasonable is not arbitrary, the reasonable hypothesis of innocence principle provides no authority for an appellate court to invade the province of the factfinder.

Cuffee v. Commonwealth, ___ Va. ___, ___ (Apr. 16, 2026) (citation omitted). Moreover, "[t]he rejection of a hypothesis of innocence 'is binding on appeal unless plainly wrong.'" *Ervin v. Commonwealth*, 57 Va. App. 495, 519 (2011) (en banc) (quoting *Archer v. Commonwealth*, 26 Va. App. 1, 12-13 (1997)).

Here, although Deputy Said did not personally observe Davis driving, Davis admitted that he drove to the Gum Springs Pit Stop when questioned. In addition, even though Davis did

not provide a specific time or date when he drove to the Gum Springs Pit Stop, the trier of fact could have reasonably concluded that Davis drove the vehicle on or around the date of the incident. Also, Davis was found unconscious and unresponsive in the driver's seat of a vehicle parked at the Gum Springs Pit Stop. Further, since Davis's driver's license had been suspended as of February 23, 2022, and the arrest occurred on August 9, 2023, a reasonable factfinder could have concluded that Davis, who was found asleep in the driver's seat that August evening, drove that specific vehicle during the time frame that his license was revoked. Hence, we do not find that the inferences adopted by the trial court are so removed from the evidence as to "push 'into the realm of *non sequitur*.'" *Perkins*, 295 Va. at 332 (quoting *Bowman*, 290 Va. at 500). Davis's hypothesis of innocence is that he was dropped off at the Pit Stop that evening by a different driver. We find the proposition that Davis drove himself to the location earlier that evening, while his license was revoked, to be a much more reasonable inference drawn by the trier of fact from the record. Thus, we will not disturb the trial court's conclusion on appeal.

III. CONCLUSION

For the foregoing reasons, we affirm the trial court's judgment.

Affirmed.