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THE STATE OF NEW HAMPSHIRE
SUPREME COURT

In Case No. 2009-0176, State of New Hampshire v. Jackie Saucier, the court on June 24, 2010, issued the following order:

Having considered the briefs and limited record on appeal, we conclude that oral argument is unnecessary for the disposition of this appeal. See Sup. Ct. R. 18(1). We affirm.

The defendant, Jackie Saucier, appeals her conviction for driving while intoxicated (DWI). She argues that the State failed to present sufficient evidence to establish that she was impaired.

To prevail in a challenge to the sufficiency of the evidence, the defendant bears the burden of proving that no rational trier of fact, viewing the evidence in the light most favorable to the State, could have found guilt beyond a reasonable doubt. State v. Kelley, 159 N.H. 449, 454-55 (2009). In reviewing the evidence, we examine each evidentiary item in the context of all the evidence, not in isolation. *Id.* Circumstantial evidence may be sufficient to support a finding of guilty beyond a reasonable doubt. *Id.* The trier of fact may draw reasonable inferences from facts proved and also inferences from facts found as a result of other inferences, provided they can be reasonably drawn therefrom. *Id.*

The testimony in this case included: (1) the defendant was first observed driving erratically in Maine; (2) when a Maine state trooper activated his blue lights, she first pulled over and then pulled back onto the road and accelerated; (3) while being pursued across the Route 95 bridge into New Hampshire, the defendant accelerated to approximately 80 miles an hour while making lane changes without signaling and drifting between lanes; (4) when finally stopped by three officers in separate cruisers, the defendant exited her car, flailing her arms and shouting, "shoot me, I'm a criminal, just shoot me"; (5) she was unsteady on her feet and walked in a circular motion; (6) as the defendant struggled against being handcuffed, the police officer who subsequently transported her to booking noted an odor of alcohol on her breath, that her speech was slurred and that she had trouble maintaining her balance; (7) during an inventory search of her car, the officers found an open twelve-pack of cold beer missing several cans, and empty cans strewn in the front and back seats; and (8) the car also contained a wet, beer-soaked pillow and the driver's seat was also wet.

The defendant argues that because she denied having anything to drink and no blood, breath, urine or field sobriety tests were conducted, the State could not establish that she was impaired due to alcohol. We disagree. As the State notes, we have not held that field sobriety or other chemical tests must be

conducted to establish impairment due to alcohol. Cf. State v. Kelley, 159 N.H. at 454 (for more than a century, law in this jurisdiction is that intoxication is fact open to observation of every man). Viewing the evidence presented at trial in the light most favorable to the State, we conclude that it was sufficient for a rational fact finder to find beyond a reasonable doubt that the defendant was guilty of DWI. While the defendant cites alleged inconsistencies in the testimony of the State's witnesses in further support of her challenge to the sufficiency of the evidence, those inconsistencies were for the fact finder to resolve. See State v. MacDonald, 156 N.H. 803, 805-06 (2008).

Affirmed.

Broderick, C.J., and Dalianis, Duggan, Hicks and Conboy, JJ., concurred.

**Eileen Fox,
Clerk**

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