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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A09-2259**

State of Minnesota,  
Respondent,

vs.

Bradley James Hutto,  
Appellant.

**Filed August 31, 2010  
Affirmed  
Collins, Judge\***

Redwood County District Court  
File No. 64-CR-09-467

Lori Swanson, Attorney General, James B. Early, Assistant Attorney General, St. Paul, Minnesota; and

Patrick R. Rohland, Redwood County Attorney, Redwood Falls, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Theodora Gaitas, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Minge, Presiding Judge; Johnson, Judge; and Collins, Judge.

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\* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

**COLLINS**, Judge

Appellant Bradley Hutto challenges the sufficiency of the evidence supporting his conviction of criminal vehicular homicide. The only contested issue at trial was whether Hutto was the driver. We affirm.

### DECISION

When considering a claim of insufficient evidence, this court's review is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach a guilty verdict. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). We assume the jury believed the evidence supporting the verdict and disbelieved any evidence to the contrary. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). This is particularly true when the case turns on conflicting testimony. *State v. Pieschke*, 295 N.W.2d 580, 584 (Minn. 1980). We will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude the defendant was guilty of the charged offense. *State v. Fleck*, 777 N.W.2d 233, 236 (Minn. 2010).

Bradley Hutto and Z.T. were socializing with their coworkers at a trailer park where some of them lived. Hutto and Z.T. began drinking early that day and later left the trailer park in Z.T.'s pickup truck. It is undisputed that Hutto was then driving and that he was intoxicated. Shortly after the two left, one of their coworkers received a panicked call from Hutto reporting an accident. Hutto was crying and twice stated that he killed

Z.T. Hutto's coworkers at the trailer park drove to the scene, found Hutto standing on the road and the truck in a ditch with Z.T. inside, and called 911. The truck had rolled over off of a rural gravel road; there were no uninvolved eyewitnesses. Z.T. was not breathing and did not have a pulse. Emergency personnel arrived and transported Z.T. to the hospital, where he was pronounced dead. Blood tests revealed that Hutto's alcohol concentration was .21; Z.T.'s was .25.

Numerous times at the accident scene, the hospital, and the police station, Hutto admitted that he was the driver. And Hutto continued to state that he killed Z.T. At trial, two coworkers, two police officers, and three emergency medical personnel testified that they heard Hutto state that he was the driver. But Hutto offered a different version of the events. He testified that after a time of driving around and "doing some doughnuts" on the gravel road, he pulled over and got out of the truck to relieve himself; Z.T. then moved to the driver's seat, drove away, spun off the road, and rolled the truck. Hutto did not recall telling anyone after the accident that he was the driver. He did remember saying, "I killed [Z.T.]," but explained that he made that statement because he believed that he should not have gotten out of the truck or should have somehow prevented Z.T. from driving. Our highly deferential standard of review requires us to assume that the jury believed the evidence supporting the verdict—Hutto's repeated admissions—and disbelieved the evidence to the contrary—Hutto's trial testimony. The evidence permitted the jury to find beyond a reasonable doubt that Hutto was the driver and is sufficient to sustain the conviction.

Hutto's arguments on appeal essentially mirror his attorney's closing arguments to the jury: (1) the condition of the truck combined with Hutto's lack of injuries suggests that Hutto could not have been in the truck when it rolled over; (2) the position in which Z.T. was found suggests that Z.T. was driving; (3) the jury could not have determined that Z.T. was a passenger (and not the driver) because there was no medical testimony about Z.T.'s cause of death; and (4) the statements Hutto made soon after the accident are unreliable because he was under the influence of alcohol and distraught. These arguments are not compelling.

First, Hutto's argument that he could not have been in the truck because he was not injured is sheer speculation. Photos admitted at trial show extensive damage to the truck, including dents above each door, but the roof of the truck's cab did not collapse and the front and back windows both remained intact. And while Hutto was relatively unharmed, there was testimony indicating that he bore some scratches and abrasions. Hutto initially refused medical care and consistently asserted that he was fine, but he eventually allowed a cervical collar to be placed on his neck and was transported to the hospital in an ambulance for further examination. Hutto was uncooperative with medical personnel, but there is no indication that he ever told them that he did not need medical care because he was not involved in the accident.

Second, Z.T.'s body position in the truck after the rollover is inconclusive in determining where he was seated before the rollover. Multiple witnesses gave a consistent description of the position in which Z.T. was found: He was on his side on the bench seat of the truck with his head near the passenger's side door, his hips near the

middle of the cab with his right leg on the driver's side and his left leg curved around the gear shift with his knee on the passenger side of the vehicle. Z.T. was not wearing a seatbelt in a pickup truck that rolled completely over, ending up back on its wheels. No definite conclusion can be drawn from Z.T.'s body position after the rollover.

Third, it is unclear why the jury would have needed to hear medical testimony establishing Z.T.'s cause of death in order to find that Hutto was the driver. Hutto confirms in his brief that the only issue at trial was whether he was the driver. The uncontroverted testimony was that Z.T. died of massive head trauma and Hutto did not contest whether the rollover was the cause of death.

Finally, it is exclusively the jury's role to assess the weight and reliability of Hutto's admissions that he was the driver. *See DeMars v. State*, 352 N.W.2d 13, 16 (Minn. 1984) ("The credibility of the witnesses and the weight to be given their testimony are determinations to be made by the factfinder."). The jury was aware that Hutto was intoxicated and extremely distraught at the time he made his statements. His attorney thoroughly cross-examined each witness to establish Hutto's volatile emotional state following the accident. Hutto's attorney acknowledged during the closing argument that he could not explain why Hutto said that he was the driver but asked the jury to consider the context in which the statements were made. We must assume that the jury did so and credited Hutto's repeated admissions that he was the driver.

**Affirmed.**