

**IN THE TENTH JUDICIAL CIRCUIT COURT  
FOR HARDEE, HIGHLANDS, AND  
POLK COUNTY, FLORIDA**

**Case No. CI01-017110-LD**

**Appeal No.: EE-9**

**TIMOTHY HUTCHENS,**

**Appellant,**

**v.**

**STATE OF FLORIDA,**

**Appellee.**

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**OPINION OF THE COURT**

This is an appeal from the county court of Polk County, Deborah Wells presiding. The Appellant, Timothy Hutchens, was found guilty for violation of right of way and seeks review of the judgment and sentence. This court has jurisdiction. Fla. R. App. P. 9.030(c). The ruling of the trial court is AFFIRMED.

On November 3, 2002, Appellant was involved in an automobile collision when the vehicle she was traveling in collided with another vehicle at the intersection of West Lime Street and Sikes Boulevard. After considering the testimony presented at trial, the hearing officer made a factual determination that Appellant violated the other driver's right of way, whereby causing the accident.

On appeal, Appellant argues that the evidence is insufficient to sustain a conviction for violation of right of way. A judgment of conviction comes to the appellate court with a presumption of correctness. Hitchcock v. State, 413 So.2d 741 (Fla. 1982); State v. Clements, 668 So.2d 980, 981 (Fla. 1996). Weight and credibility are solely within the province of the fact finder; the appellate court's only function is to determine sufficiency as a matter of law. State v. Santomaso, 764 So.2d 735 (Fla. 2d DCA 2000); Stewart v. State, 672 So.2d 865 (Fla. 2d DCA 1996); Chaudoin v State, 362 So.2d 398 (Fla. 2d DCA 1978). Conflicts in evidence and questions about witness' credibility will not justify reversal when evidence is legally sufficient to support conviction. Wetherington v. State, 263 So.2d 294 (Fla. 3d DCA 1972). The reviewing court should not substitute its opinion of the facts for that of the trier of fact. Tibbs v. State, 397 So.2d 1170 (Fla. 1981); State v. McIntyre, 393 So.2d 16 (Fla. 2d DCA 1980). After reviewing the record, the Court finds that there was legally sufficient evidence to support a finding of guilt.

For the foregoing reasons, it is ORDERED that the judgment and sentence is

AFFIRMED.

ORDERED February 14, 2003.

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**CHARLES B. CURRY**, Chief Judge